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# INCOME-TAX MANUAL

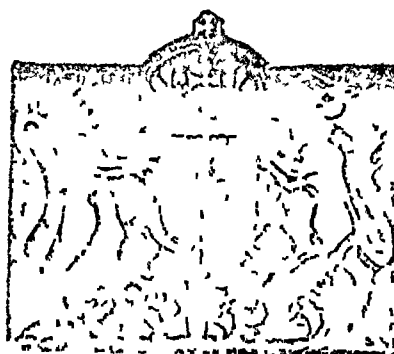
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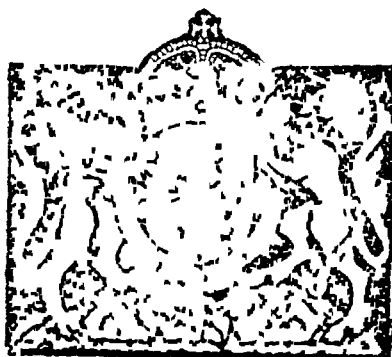
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This volume contains Parts I and II of the Income-tax Manual, namely, the Act as amended up to date and the statutory orders, exemptions and rules

Part III of the Manual containing instructions and notes designed to assist income-tax authorities will be published later on as a separate volume.

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**PART I.**  
**INDIAN INCOME-TAX ACT, 1922**  
**(XI of 1922)**

**as amended by the Indian Income-tax (Amendment) Act, 1939**  
**(VII of 1939)**

**(together with relevant extracts from Finance Acts, etc.).**

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# ACT No. XI OF 1922.<sup>1</sup>

[5th March, 1922]

## An Act to consolidate and amend the law relating to Income-tax and Super-tax.

[As modified up to the 1st May, 1939]

**W**HEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax, It is hereby enacted as follows —

1 (1) This Act may be called the Indian Income-tax Act, 1922

Short title  
extent and  
commence-  
ment

<sup>2</sup>[(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Paiganas, and applies also, within the Indian States and the tribal areas, to British subjects who are in the service of the Crown or of a local authority established in the exercise of the powers of the Crown Representative or the Central Government in that behalf, and to all other servants of the Crown in the said States and areas]

(3) It shall come into force on the first day of April, 1922

2 In this Act, unless there is anything repugnant in the subject or context,—

(1) “agricultural income” means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in British India or subject to a local rate assessed and collected by <sup>3</sup>[officers of the Crown] as such,

(b) any income derived from such land by—

(i) agriculture, or

(ii) the

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1921, Pt V, p 159, and for Report of Joint Committee, see *ibid*, 1922, Pt V, p 31

This Act has been declared in force in the district of Khondmals by s 3 and Sch of the Khondmals Laws Regulation, 1936 (4 of 1936) and in the district of Angul by s 3 and Sch of the Angul Laws Regulation, 1936 (5 of 1936)

The Act has been applied with certain exceptions to persons in the Chittagong Hill-tracts, by s 2 of the Chittagong Hill-tracts Laws Regulation, 1937 (Ben Reg 2 of 1937)

<sup>2</sup> This sub section was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>3</sup> These words were substituted for the words “officers of Government”, *ibid*

## (Definitions)

(u) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(ii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (u),

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building,

(2) "assessee" means a person by whom Income-tax is payable,

(3) <sup>1</sup>["Appellate] Assistant Commissioner" means a person appointed to be an <sup>1</sup>[Appellate] Assistant Commissioner of Income-tax under section 5,

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,

<sup>2</sup>[(4A) "the Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924,]

IV of 192

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5,

(6) "company"

<sup>1</sup> This word was inserted by s 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This clause was inserted by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

## (Definitions )

VII of 1913

(6) “company” means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which the <sup>1</sup>[Central Board of Revenue] may by general or special order, declare to be a company for the purposes of this Act,

<sup>2</sup>[(6A) ‘dividend’ includes—

- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company,
- (b) any distribution by a company of debentures or debenture-stock, to the extent to which the company possesses accumulated profits, whether capitalised or not,
- (c) any distribution made to the shareholders of a company out of accumulated profits of the company on the liquidation of the company

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included, and

- (d) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not

Provided that ‘dividend’ does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to

<sup>1</sup> These words were substituted for the words “Board of Inland Revenue” by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>2</sup> This clause was inserted by s 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Definitions)

to participate in the surplus assets, when such distribution is made in accordance with sub-clause (c) or (d)

*Explanation* —The words ‘accumulated profits’, wherever they occur in this clause, shall not include ‘capital profit’],

<sup>1</sup>[<sup>2</sup>(6B)] “firm”, “partner” and “partnership” have the same meanings respectively as in the <sup>3</sup>[Indian Partnership Act, 1932], <sup>4</sup>[provided that the expression ‘partner’ includes any person who being a minor has been admitted to the benefits of partnership,],

IX of 1932

<sup>5</sup>(6C) “income” includes anything included in ‘dividend’ as defined in clause (6A) and anything which under *Explanation 2* to sub-section (1) of section 7 is a profit received in lieu of salary for the purposes of that sub-section and any sum deemed to be profits under the second proviso to clause (vi) of sub-section (2) of section 10 and the profits of any business of insurance carried on by a mutual insurance company computed in accordance with Rule 9 in the Schedule,

(6D) “Inspecting Assistant Commissioner” means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5],

(7) “Income-tax Officer” means a person appointed to be an Income-tax Officer under section 5,

(8) “Magistrate” means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by <sup>6</sup>[the Central Government] to try offences against this Act,

(9) “person”

<sup>1</sup> This clause was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>2</sup> The original clause (6A) was relettered (6B) by section 2 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words and figures were substituted for the words and figures “Indian Contract Act, 1872”, *ibid*

<sup>4</sup> These words were added, *ibid*

<sup>5</sup> Clauses (6C) and (6D) were inserted, *ibid*

<sup>6</sup> These words were substituted for the words “the Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937

(Definitions)

(9) "person" includes a Hindu undivided family <sup>1</sup>[and a local authority],

(10) "prescribed" means prescribed by rules made under this Act,

(11) "previous year" means <sup>1</sup>[in respect of any separate source of income, profits and gains]—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up

<sup>2</sup>[Provided that where an assessee has once been assessed in respect of a particular source of income, profits and gains, he shall not in respect of that source exercise this option so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit, or],

(b) in the case of any person, business or company or class of person, business or company, such period as may be determined by the <sup>3</sup>[Central Board of Revenue] or by such authority as the Board may authorise in this behalf, <sup>4</sup>[or

(c) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under  
sub-clause

<sup>1</sup> These words were inserted by s 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This proviso was substituted, *ibid*

<sup>3</sup> These words were substituted for the words "Board of Inland Revenue" by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>4</sup> The word "or" and sub clause (c) were added by s 2 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)



## (Definitions)

sub-clause (b), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Central Board of Revenue under sub-clause (b), then at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to such other date

Provided that when such other date does not fall between the setting up of the business, profession or vocation and the next following 31st day of March, it shall be deemed that there is no previous year, and

when the assessee is a partner in a firm, 'previous year' in respect of his share of the income, profits and gains of the firm means the previous year as determined for the assessment of the income, profits and gains of the firm,]

(12) "principal officer," used with reference to a local authority or a company or any other public body or <sup>1</sup>[any] association, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Income tax Officer has served a notice of his intention of treating him as the principal officer thereof,

(13) "public servant" has the same meaning as in the Indian Penal Code,

XIV of 1860

<sup>2</sup>[(14) "registered firm" means a firm registered under the provisions of section 26A],

(15) "total income" means total amount of income, profits and gains <sup>3</sup>[referred to in sub-section (1) of section 4] computed in the manner laid down in <sup>4</sup>[this Act], and

['total

<sup>1</sup> This word was inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924)

<sup>2</sup> This clause was substituted by s. 2 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>3</sup> These words were substituted for the words "from all sources to which this Act applies" by s. 2 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words were substituted for the word and figures "section 16",

*ibid*

(Definitions Chapter I—Charge of Income-tax)

1[‘total world income’ includes all income, profits and gains wherever accruing or arising except income to which, under the provisions of sub-section (3) of section 4, this Act does not apply, and]

(16) “unregistered firm” means a firm which is not a registered firm

CHAPTER I

CHARGE OF INCOME-TAX

3 Where any <sup>2</sup>[Act of the Central Legislature] enacts that income-tax shall be charged for any year at any rate or rates 3\* \* \* \* tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of <sup>4</sup>[the total income] of the previous year of every <sup>5</sup>[individual, Hindu undivided family, <sup>6</sup>[company and local authority, and of every firm and other association of persons or the partners of the firm or members of the association individually] ] <sup>Charge of Income-tax</sup>

4 <sup>7</sup>[(1) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which— <sup>Application of Act</sup>

(a) are received or are deemed to be received in British India in such year by or on behalf of such person, or

(b) if such person is resident in British India during such year,—

(i) accrue or arise or are deemed to accrue or arise to him in British India during such year, or

(ii) accrue

<sup>1</sup> These words were added by s 2 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words “ Act of the Indian Legislature ” by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>3</sup> The words “ applicable to the total income of an assessee ” were omitted by s 3 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words were substituted for the words “ all income, profits and gains,” *ibid*

<sup>5</sup> These words were substituted for the words “ individual, company, firm and Hindu undivided family ” with effect from 1st April, 1923, by ss 3 and 11 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924)

<sup>6</sup> These words were substituted for the words “ company, firm and other association of individuals ” by s 3 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> Sub-sections (1) and (2) were substituted by s 4, *ibid*

## (Chapter I—Charge of Income-tax)

- (ii) accrue or arise to him without British India during such year, or
- (iii) having accrued or arisen to him without British India before the beginning of such year and after the 1st day of April, 1933, are brought into or received in British India by him during such year, or
- (c) if such person is not resident in British India during such year, accrue or arise or are deemed to accrue or arise to him in British India during such year

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub-clause (ii) of clause (b) and the amount of the income, profits and gains referred to in sub-clause (iii) of clause (b) but only the greater of these two amounts

Provided further that, in the case of a person not ordinarily resident in British India, income, profits and gains which accrue or arise to him without British India shall not be so included unless they are derived from a business controlled in or a profession or vocation set up in India or unless they are brought into or received in British India by him during such year

Provided further that if in any year the amount of income accruing or arising without British India exceeds the amount brought into British India in that year there shall not be included in the assessment of the income of that year so much of such excess as does not exceed four thousand five hundred rupees

*Explanation 1*—Income, profits and gains accruing or arising without British India shall not be deemed to be received in or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance-sheet prepared in British India

*Explanation 2*—Income which would be chargeable under the head 'Salaries' if payable in British India and

not

(Chapter I—Charge of Income-tax)

not being pension payable without India shall be deemed to accrue or arise in British India wherever paid if it is earned in British India

*Explanation 3*—A dividend paid without British India shall be deemed to be income accruing and arising in British India to the extent to which it has been paid out of profits subjected to income-tax in British India

(2) For the purposes of sub-section (1), where a husband is not resident in British India, remittances received by his wife resident in British India out of any part of his income which is not included in his total income shall be deemed to be income accruing in British India to the wife ],

(3) <sup>1</sup>[Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them]

(i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto

<sup>2</sup>[(ia) Any income derived from business carried on on behalf of a religious or charitable institution when the income is applied solely to the purposes of the institution and—

(a) the business is carried on in the course of the carrying out of a primary purpose of the institution, or

(b) the work in connection with the business is mainly carried on by beneficiaries of the institution ],

✓ (ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes

(iii) The

<sup>1</sup> These words were substituted for the words "This Act shall not apply to the following classes of income" by s 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This clause was inserted, *ibid*

## (Chapter I—Charge of Income-tax)

- (iii) The income of local authorities <sup>1</sup>[except income from a trade or business carried on by the authority so far as that income is not income arising from the supply of a commodity or service within its own jurisdictional area]
- (iv) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, <sup>2</sup>[1925], applies, <sup>3</sup>\* \* \* \* <sup>4</sup>XIX of 1925.
- 4\*                      \*                      \*                      \*                      \*
- (v) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit
- (vi) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employé
- (vii) Agricultural income
- <sup>5</sup>[(ix) Any income received by trustees on behalf of a recognised provident fund as defined in clause (a) of section 58A.]

In this sub-section "charitable purpose" includes relief of the poor, education medical relief, and the advancement of any other object of general public utility, <sup>6</sup>[but nothing contained in clause (i), clause (ia) or clause (u) shall operate to exempt from the provisions of this Act that part of the income of a private religious trust which does not enure for the benefit of the public]

[4A For

<sup>1</sup> These words were added by s 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These figures were substituted for the figures "1897," *ibid*

<sup>3</sup> The words "or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is, or but for an exemption under that Act would be applicable" were omitted by s 4 of the Indian Income tax (Amendment) Act, 1924 (11 of 1924)

<sup>4</sup> Clause (v) was omitted by s 4 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> This clause was added by s 2 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929)

<sup>6</sup> These words were added by s 4 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

*(Chapter I—Charge of Income-tax)*

<sup>1</sup>[4A For the purposes of this Act—

Residence in  
British India

(a) any individual is resident in British India in any year if he—

✓ (i) is in British India in that year for a period amounting in all to one hundred and eighty-two days or more, or

✓ (ii) maintains or has maintained for him a dwelling place in British India for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in British India for any time in that year, or

(iii) having within the four years preceding that year been in British India for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in British India for any time in that year otherwise than on an occasional or casual visit,

(b) a Hindu undivided family, firm or other association of persons is resident in British India unless the control and management of its affairs is situated wholly without British India and

(c) a company is resident in British India in any year (a) if the control and management of its affairs is situated wholly in British India in that year, or (b) if its income arising in British India in that year exceeds its income arising without British India in that year

4B For the purposes of this Act—

Ordinary  
residence

(a) an individual is 'not ordinarily resident' in British India in any year if he has not been resident in British India in nine out of the ten years preceding that year or if he has not during the seven years preceding that year been in British India for a period of, or for periods amounting in all to, more than two years,

(b) a Hindu undivided family is deemed to be ordinarily resident in British India if its manager is ordinarily resident in British India,

(c) a company, firm or other association of persons is ordinarily resident in British India if it is resident in British India ]

## CHAPTER

<sup>1</sup> Sections 4A and 4B were inserted by s 5 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

(Chapter II — *Income-tax Authorities* )

## CHAPTER II

## INCOME-TAX AUTHORITIES

Income tax  
authorities

<sup>1</sup>[5 (1) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely —

- (a) the Central Board of Revenue,
- (b) Commissioners of Income-tax,
- (c) Assistant Commissioners of Income-tax who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,

(d) Income-tax Officers

(2) The Central Government may appoint a Commissioner of Income-tax for any area specified in the order of appointment, and may appoint Commissioners of Income-tax, not more than three in all each to discharge, without reference to area, and to the exclusion of any Commissioner appointed for any area, the functions of a Commissioner in respect of any cases or classes of cases assigned to him by the Central Board of Revenue

(3) The Central Government may appoint for any area as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers as it thinks fit

(4) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons or classes of persons and of such incomes or classes of income and in respect of such areas as the Central Board of Revenue may direct, and, where two or more Appellate Assistant Commissioners have been appointed for the same area, in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed

(5) Inspecting Assistant Commissioners of Income-tax and Income-tax Officers shall perform their functions in respect of such persons or classes of persons and of such incomes or classes

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<sup>1</sup> This section was substituted for the original section by s 6 of the Indian Income-tax (Amendment) Act 1939 '7 211939)

*(Chapter II —Income-tax Authorities )*

classes of income and in respect of such areas as the Commissioner of Income-tax may direct, and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area, in accordance with any orders which the Commissioner of Income-tax may make for the distribution and allocation of the work to be performed. The Commissioner may, with the previous approval of the Central Board of Revenue, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively

(6) The Central Board of Revenue may, by notification in the official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income and for such area as may be specified in the notification, and thereupon the functions so specified shall cease within the specified area to be performed in respect of the specified classes of persons or classes of income by the other authorities appointed under sub-sections (2) and (3)

(7) Assistant Commissioners of Income-tax and Income-tax Officers shall for the purposes of this Act, be subordinate to the Commissioner of Income-tax for the area in which they perform their functions, or where they perform functions assigned to them by a Commissioner of Income-tax appointed without reference to area, to that Commissioner

(8) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions ]



## (Chapter III—Taxable Income)

## CHAPTER III

## TAXABLE INCOME

H<sup>e</sup>ads of  
i<sup>n</sup>c<sup>o</sup>m<sup>e</sup>  
c<sup>h</sup>arg<sup>e</sup>able to  
I<sup>n</sup>c<sup>o</sup>m<sup>e</sup>-t<sup>a</sup>x

6 Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely —

- (i) Salaries
- (ii) Interest on securities
- <sup>1</sup>[(iii) Income from property
- (iv) Profits and gains of business, profession or vocation
- (v) Income from other sources ]

7 (1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits <sup>2</sup>\* \* \* in lieu of, or in addition to, any salary or wages, <sup>3</sup>[which are due to him from, whether paid or not, or are paid by or on behalf of, the Crown,] a local authority, a company, or any other public body or association, or <sup>4</sup>[any private employer, and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received

Provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties],

Provided <sup>5</sup>[further] that the tax shall not be payable in respect of any sum <sup>6</sup>[deducted from the salary payable by or on behalf of the Crown to any individual, being a sum deducted

in

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<sup>1</sup> These clauses were substituted for the original clauses (iii), (iv), (v) and (vi) by s. 7 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> The words "received by him" were omitted by s. 8, *ibid*.

<sup>3</sup> These words were substituted for the words "which are paid by or on behalf of the Crown," *ibid*

<sup>4</sup> These words were substituted for the words "by or on behalf of any private employer", *ibid*

<sup>5</sup> This word was inserted, *ibid*

<sup>6</sup> These words were substituted for the words "deducted under the authority of Government from the salary of any individual" by the Government of India (Adaptation of Indian Laws) Order, 1937

## (Chapter III —Taxable Income)

in accordance with the conditions of his service], for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary,

<sup>1</sup>[Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction],

<sup>2</sup>[*Explanation* <sup>3</sup>[1] —The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section ]

<sup>4</sup>[*Explanation* 2 —A payment due to or received by an assessee from an employer or former employer or from a provident or other fund at or in connection with the termination of his employment, whether or not the employment is then terminated or to be terminated, is to the extent to which it does not consist of contributions by the assessee or interest on such contributions a profit received in lieu of salary for the purposes of this sub-section, unless the payment is made solely as compensation for loss of employment and not by way of remuneration for past services

Provided that nothing herein contained shall render liable to income-tax any payment from a provident fund to which the Provident Funds Act, 1925, applies, or any payment from a recognised provident fund within the meaning of Chapter IXA if such payment is exempted from payment of income-tax under the provisions of Chapter IXA, or any payment from an approved superannuation fund within the meaning of Chapter IXB made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established ]

(2) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part

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<sup>1</sup>This proviso was inserted by s 8 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This *Explanation* was added by s 2 of the Indian Income-tax (Amendment) Act, 1923 (15 of 1923)

<sup>3</sup> The original *Explanation* was numbered "1" by s 8 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> This *Explanation* was added, *ibid*

## (Chapter III—Taxable Income)

part of India <sup>1</sup>[by or on behalf of the Crown] or by a local authority established <sup>2</sup>[in the exercise of the powers of the Crown Representative or the Central Government in that behalf]

Interest on  
securities

8 The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the <sup>3</sup>[Central Government] or of a <sup>4</sup>[Provincial Government], or on debentures or other securities for money issued by or on behalf of a local authority or a company

<sup>5</sup>[Provided that no income-tax shall be payable under this section by the assessee in respect of any sum deducted from such interest by way of commission by a banker realizing such interest on behalf of the assessee] <sup>6</sup>[or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in British India who may be appointed an agent under section 43 in respect of such interest],

Provided <sup>7</sup>[further] that no income-tax shall be payable on the interest receivable on any security of the <sup>3</sup>[Central Government] issued or declared to be income-tax free,

Provided further that the income-tax payable on the interest receivable on any security of a <sup>4</sup>[Provincial Government] issued income-tax free shall be payable by the <sup>4</sup>[Provincial Government]

## 9 (1) The

<sup>1</sup> These words were substituted for the words "by Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>2</sup> These words were substituted for the words "by the Governor-General in Council", *ibid*

<sup>3</sup> These words were substituted for the words "Government of India", *ibid*

<sup>4</sup> These words were substituted for the words "Local Government", *ibid*

<sup>5</sup> This proviso was inserted by s 3 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>6</sup> These words were added by s 9 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> This word was inserted by s 3 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

## (Chapter III —Taxable Income)

9 (1) The tax shall be payable by an assessee <sup>1</sup>[under the <sup>Property</sup> head "Income from Property"] in respect of the *bonâ fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of <sup>2</sup>[any business, profession or vocation carried on by him the profits of which are assessable to tax,] subject to the following allowances, namely —

(i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value,

(ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value,

(iii) the amount of any annual premium paid to insure the property against risk of damage or destruction,

<sup>3</sup>[(iv) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge, where the property is subject to an annual charge not being a capital charge, the amount of such charge, where the property is subject to a ground rent, the amount of such ground rent, and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital]

Provided that no allowance shall be made in respect of any interest or annual charge payable without British India and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax

<sup>1</sup> These words were substituted for the words "under the head "Property"" by s 10 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "his business", *ibid*

<sup>3</sup> This clause was substituted, *ibid*

## (Chapter III —Taxable Income)

tax has been deducted under section 18 or in respect of which there is an agent for the payee in British India who may be assessed under section 43,]

(v) any sums paid on account of land revenue in respect of the property,

R. 7

(vi) in respect of collection charges, a sum not exceeding the prescribed maximum,

<sup>1</sup>[(vii) in respect of vacancies, that part of the net annual value, after deducting the foregoing allowances, which is proportional to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of the net annual value, after deducting the foregoing allowances appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied,]

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(2) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent of the total income of the owner

<sup>3</sup>[(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income]

Business

10 (1) The tax shall be payable by an assessee under the head <sup>4</sup>["Profits and gains of business, profession or vocation"] in respect of the profit or gains of any <sup>5</sup>[business, profession or vocation] carried on by him

(2) Such

<sup>1</sup> This clause was substituted by s 10 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> The proviso was omitted, *ibid*

<sup>3</sup> This sub-section was added, *ibid*

<sup>4</sup> These words were substituted for the word "Business" by s 11, *ibid*

<sup>5</sup> These words were substituted for the word "business", *ibid*

(Chapter III —Taxable Income )

(2) Such profits or gains shall be computed after making the following allowances, namely —

(i) any rent paid for the premises in which such <sup>1</sup>[business, profession or vocation] is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the <sup>2</sup>[proportional annual value of the part] so used

(ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed,

(iii) in respect of capital borrowed for the purposes of the <sup>1</sup>[business, profession or vocation,] <sup>3</sup>\* \* \* \* the amount of the interest paid

<sup>4</sup>[Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in British India who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm],

*Explanation* —Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause

(iv) in

<sup>1</sup>These words were substituted for the word "business" by s 11 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup>These words were substituted for the words "proportional part", *ibid*

<sup>3</sup>The words "where the payment of interest thereon is not in any way dependent on the earning of profits" were omitted, *ibid*

<sup>4</sup>This proviso was added, *ibid*

## (Chapter III —Taxable Income )

- (iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the <sup>1</sup>[business, profession or vocation], the amount of any premium paid,
- (v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof,
- (vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent<sup>2</sup> to such percentage on the <sup>2</sup>[original cost] thereof<sup>3</sup> to the assessee as may in any case or class of cases be prescribed

Provided that—

- (a) the prescribed particulars have been duly furnished,
- (b) where full effect cannot be given to any such allowance in any year (3) owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years, and
- (c) the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the Indian Income-tax Act, 1886, shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be,
- (vii) in

<sup>1</sup> These words were substituted for the word "business" by s 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> For the words "Original cost" the words "Written down value" have been substituted by section 11 *ibid*. But the amendment shall not take effect earlier than the 1st day of April 1940 (Proviso to sub section 2 of section 1 *ibid*)

<sup>3</sup> The words "not being a year which ended prior to the 1st day of April 1939" have been inserted between the words "any year" and "owing" in the second line of the proviso (b) by section 11 *ibid*. But the amendment shall not take effect earlier than the 1st day of April 1940 *ibid*.

## (Chapter III —Taxable Income )

(vi) in respect of any machinery or plant which, in consequence of its having become obsolete, has been sold or discarded, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (vi), or any Act repealed hereby, or the Indian Income-tax Act, 1886, and the amount for which the machinery or plant is actually sold, or its scrap value,

<sup>1</sup>[<sup>2</sup>(vii)] in respect of animals which have been used for the purposes of the <sup>3</sup>[business, profession or vocation] otherwise than as stock in trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals],

<sup>2</sup>[(ix)] any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the <sup>3</sup>[business, profession or vocation],

<sup>4</sup>[<sup>2</sup>(x)] any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(a) the pay of the employee and the conditions of his service,

(b) the profits of the <sup>3</sup>[business, profession or vocation] for the year in question, and

(c) the

<sup>1</sup> This clause was originally inserted as clause (vi) (a) by s 2 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928)

<sup>2</sup> The original clauses (vii), (viii) and (viii) were re numbered as (vii), (ix) and (x), respectively, by s 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words were substituted for the word "business", *ibid*

<sup>4</sup> This clause was originally inserted as clause (vii) (a) by s 2 of the Indian Income-tax (Third Amendment) Act, 1930 (23 of 1930)



## (Chapter III —Taxable Income)

(c) the general practice in similar <sup>1</sup>[businesses, professions or vocations],

<sup>2</sup>[(xi) when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, due to the assessee in respect of that part of his business, profession or vocation, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee

Provided that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt or loan and the amount so allowed, the excess shall be deemed to be a profit of the year in which it is recovered, and if less, the deficiency shall be deemed to be a business expense of that year],

<sup>3</sup>[(xii)] any expenditure <sup>4</sup>[(not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation],

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<sup>6</sup>[(3) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (iv), clause (v), clause (vi) or clause (vii) of sub-section (2) is not wholly used for the purposes of the business, profession or vocation,

<sup>1</sup> These words were substituted for the word "businesses" by s 11 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This clause was inserted, *ibid*

<sup>3</sup> The original clause (ix) was re-numbered (xi), *ibid*

<sup>4</sup> These words were substituted for the brackets and words "(not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains", *ibid*

<sup>5</sup> The proviso was omitted, *ibid*

<sup>6</sup> Sub sections (3), (4), (5), (6) and (7) were substituted for the original sub section (3), *ibid*

## (Chapter III—Taxable Income)

vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used

(4) Nothing in clause (ix) or clause (xi) of sub-section (2) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains; and nothing in clause (xi) of sub-section (2) shall be deemed to authorise—

- (a) any allowance in respect of a payment which is chargeable under the head 'Salaries' if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18, or
- (b) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to any partner of the firm, or
- (c) any allowance in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head 'Salaries'

(5) In sub-section (2), 'paid' means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section; 'plant' includes vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation, and 'written down value' means—

- (a) in the case of assets acquired in the previous year, the actual cost to the assessee,
- (b) in the case of assets acquired before the previous year but after the commencement of the Indian Income-tax (Amendment) Act, 1939, the actual cost to the assessee less all depreciation allowable to him under this section,
- (c) in the case of assets acquired before the commencement of the Indian Income-tax (Amendment) Act, 1939, the actual cost to the assessee less for each financial

## (Chapter III —Taxable Income)

financial year since acquisition the amount of depreciation applicable to the assets at the rates in force for each such year since the 1st day of April, 1922, and at the rates in force on the 1st day of April, 1922, for each such year prior to that date

Provided that where the provisions of the proviso to subsection (2) of section 26 are applicable, the actual cost to the assessee referred to in clauses (a), (b) and (c) shall be the actual cost to the person succeeded in the business, profession or vocation

Provided further that there shall not be so deducted from the actual cost any depreciation allowance or part of any depreciation allowance which was due for a year which ended prior to the 1st day of April, 1939, but to which full effect was not given owing to the absence of profits or gains chargeable for that year, or owing to the profits or gains so chargeable being less than the allowance

(6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly

(7) Notwithstanding anything to the contrary contained in section 8, 9, 10, 12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act ]

11 *Professional earnings* —Omitted by s 12 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

Other sources.

12 (1) The tax shall be payable by an assessee under the head <sup>1</sup>["Income from other sources"] in respect of income, profits and gains of every kind <sup>2</sup>[which may be included in his total income] (if not included under any of the preceding heads)

(2) Such

<sup>1</sup> These words were substituted for the words "Other sources" by s 13 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "and from every source to which this Act applies", *ibid*

## (Chapter III —Taxable Income )

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, <sup>1</sup>[provided that no allowance shall be made on account of—

(a) any personal expenses of the assessee, or

(b) any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or

(c) any payment which is chargeable under the head 'Salaries', if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18 ]

<sup>2</sup>[(3) Where an assessee lets on hire machinery, plant or furniture belonging to him, he shall be entitled to allowances in accordance with the provisions of clauses (iv), (v), (vi) and (vii) of sub-section (2) of section 10 ]

<sup>3</sup>[12A. Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement ]

13. Income, profits and gains shall be computed, for the purposes of section 10 <sup>4</sup>\* and 12, in accordance with the method of accounting regularly employed by the assessee

Provided

<sup>1</sup> These words were substituted for the words "provided that no allowance shall be made on account of any personal expenses of the assessee" by s 13 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was added, *ibid*

<sup>3</sup> This section was inserted by s 14, *ibid*

<sup>4</sup> The figures " 11 " were omitted by s 15, *ibid*

## (Chapter III—Taxable Income)

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine

Exemptions  
of a general  
nature

14. (1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family

<sup>1</sup> [(2) The tax shall not be payable by an assessee—

(a) if a partner of an unregistered firm, in respect of any portion of his share in the profits and gains of the firm computed in the manner laid down in clause (b) of sub-section (1) of section 16 on which the tax has already been paid by the firm, or

(b) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association ]

Exemption in  
the case of life  
insurances

15 (1) The tax shall not be payable <sup>2</sup>[in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee], or as a contribution to any Provident Fund to which the Provident Funds Act, <sup>3</sup>[1925], applies \* \* \* <sup>4</sup>

XIX of 1921.

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member

(3) The

<sup>1</sup> This sub section was substituted by s 16 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the original words by s 17, *ibid*

<sup>3</sup> These figures were substituted for the figures "1897," *ibid*

<sup>4</sup> The words "or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act" were omitted by s 5 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924)

## (Chapter III —Taxable Income )

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the <sup>1</sup>[second proviso] to sub-section (1) of section 7 <sup>2</sup>[and any sums exempted under sub-section (1) of section 58F], exceed <sup>3</sup>[in the case of an individual, one-sixth of the total income of the assessee, or six thousand rupees, whichever is less, and in the case of a Hindu undivided family, one-sixth of the total income of the assessee, or twelve thousand rupees, whichever is less]

16. <sup>4</sup>[(1) In computing the total income of an assessee—

Exemptions  
and exclusions  
determining  
the total  
income

(a) any sums exempted under the second proviso to sub-section (1) of section 7, the second and third provisos to section 8, sub-section (2) of section 14 and section 15 shall be included,

(b) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 24,

(c) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939, from assets remaining the property of the settlor or disponent, shall be deemed to be income of the settlor or disponent, and all income arising to any person by virtue

<sup>1</sup> These words were substituted for the word "proviso" by s 17 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted by s 3 of the Indian Income tax (Provident Funds Relief) Act, 1929 (12 of 1929)

<sup>3</sup> These words were substituted for the words "one-sixth of the total income of the assessee" by s 17 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Sub-sections (1) and (2) were substituted by s 18 *ibid*

## (Chapter III.—Taxable Income)

by virtue of a revocable transfer of assets shall be deemed to be income of the transferor

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, donee or transferor, or in any way gives the settlor, donee or transferor a right to reassume power, directly or indirectly over the income or assets

Provided further that the expression 'settlement' or 'disposition' shall for the purposes of this clause include any disposition, trust, covenant, agreement, or arrangement, and the expression 'settlor or donee' in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made

Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or donee derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said income as and when the power to revoke arises to him

(2) For the purposes of inclusion in the total income of an assessee any dividend shall be deemed to be income of the previous year in which it is paid, credited or distributed or deemed to have been paid, credited or distributed to him, and shall be increased by the amount of income-tax (but not super-tax) payable thereon calculated at the rate applicable to the total income of a company for the financial year in which the dividend is paid, credited or distributed or deemed to have been paid, credited or distributed

Provided that when any portion of the profits and gains of the company out of which such dividend has been paid, credited or distributed or deemed to have been paid, credited or distributed was not liable to income-tax in the hands of the company, the income-tax to be added under this section shall be calculated upon only such proportion of the dividend as the amount of the profits and gains of the company liable to income-tax bears to the total profits and gains of the company ]

[(3) In:

## (Chapter III—Taxable Income)

<sup>1</sup>[(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

(a) so much of the income of a wife or minor child of such individual as arises directly or indirectly—

(i) from the membership of the wife in a firm of which her husband is a partner,

(ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner,

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart, or

(iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual <sup>2</sup>[otherwise than for adequate consideration], and

(b) so much of the income of any <sup>3</sup>[person or association of persons] <sup>4</sup> \* \* \* \* as arises from assets transferred <sup>5</sup>[otherwise than for adequate consideration to the person or association] by such individual <sup>6</sup>[for the benefit of his wife or a minor child or both] ]

<sup>7</sup>[17. (1) Where a person is not resident in British India, and is a British subject as defined in section 17 of the British Nationality and Status of Aliens Act, 1914, or a subject of a State in India or Burma, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount bearing

Determination  
of tax payable  
in certain  
special cases

<sup>1</sup> This sub section was added by s. 2 of the Indian Income-tax (Amendment) Act, 1937 (4 of 1937)

<sup>2</sup> These words were inserted by s. 18 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words were substituted for the words "association of individuals", *ibid*

<sup>4</sup> The words "consisting of such individual and his wife" were omitted, *ibid*

<sup>5</sup> These words were substituted for the words "to the association", *ibid*

<sup>6</sup> These words were added, *ibid*

<sup>7</sup> This section was substituted by s. 19, *ibid*



## (Chapter III —Taxable Income Chapter IV —Deductions and Assessment)

bearing to the total amount of the tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income, and in the case of any other non-resident person, the income-tax payable by him or on his behalf on his total income shall be at the maximum rate and the super-tax payable thereon shall be an amount bearing to the total amount of super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income

(2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income ]

## CHAPTER IV

## DEDUCTIONS AND ASSESSMENT

Payment by  
deduction at  
source

18 1\*

"

"

\*

"

\*

R. 11 (1), 11  
(3)

(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax <sup>2</sup>[and super-tax] on the amount payable <sup>3</sup>[at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head]

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct

[(2A) Notwithstanding

<sup>1</sup> Sub section (1) was omitted by s. 7 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>2</sup> These words were substituted for the words "but not super-tax" by s. 20 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words were substituted for the words "at the rate applicable to the estimated income of the assessee under this head", *ibid*

## (Chapter IV — Deductions and Assessment)

<sup>1</sup>[(2A) Notwithstanding anything hereinbefore contained for **R 10-A.** the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head "Salaries" which is payable to the assessee out of India by or <sup>2</sup>[on behalf of the Crown], and the value in rupees of such income shall be calculated at the prescribed rate of exchange ]

<sup>3</sup>[(2B) Any person responsible for paying any income chargeable under the head 'Salaries' to a person not resident in British India shall at the time of payment deduct income-tax at the maximum rate and also super-tax at the rate or rates applicable to the estimated income of the assessee under this head ]

(3) The person responsible for paying any income chargeable **R 12** under the head "Interest on securities" shall, <sup>4</sup>[unless otherwise prescribed in the case of any security of the <sup>5</sup>[Central Government] ], at the time of payment, deduct income-tax <sup>4</sup>[but not super-tax] on the amount of the interest payable at the maximum rate

<sup>6</sup>[Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income <sup>7</sup>[or the total world income] of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income <sup>8</sup>[referred to in this sub-section

<sup>1</sup> This sub section was added by s 2 of the Indian Income-tax (Second Amendment) Act, 1925 (16 of 1925)

<sup>2</sup> These words were substituted for the words " on behalf of Government " by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>3</sup> This sub section was inserted by s 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words were inserted by s 7 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>5</sup> These words were substituted for the words " Government of India " by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>6</sup> This proviso and sub sections (3A) to (3D) since renumbered (3B) to (3E) were inserted by s 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>7</sup> These words were inserted by s 20 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>8</sup> These words, brackets, figure and letter were substituted for the words "herein referred to ", *ibid*

## (Chapter IV —Deductions and Assessment)

sub-section or in sub-section (2B), as the case may be,] to such recipient shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be

R. 12-A

<sup>1</sup>[(3A) Any person responsible for paying to a person not resident in British India any interest not being 'Interest on Securities', or any other sum chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay income-tax thereon as an agent, deduct income-tax at the maximum rate ]

R 12-A

<sup>2</sup>[(3B) Where the Income-tax Officer has reason to believe that the <sup>3</sup>[total world income] of any person residing out of British India to whom any interest not being "Interest on Securities" <sup>4</sup>[or any other sum chargeable under this Act] is payable, will in any year exceed the maximum amount which is not chargeable with super-tax under the law for the time being in force, he may, by order in writing, require the person responsible for <sup>5</sup>[making such payments] to such person to deduct at the time of payment <sup>6</sup> a super-tax at the rates determined by the Income-tax Officer to be applicable to the <sup>3</sup>[total world income] of such person in that year

R 12-A.

<sup>2</sup>[(3C)] Where the person responsible for paying any interest not being "Interest on Securities" <sup>4</sup>[or any other sum chargeable under this Act] to any person <sup>7</sup>[makes to that person in any year payments] exceeding in the aggregate the maximum amount which is not chargeable with super-tax under the law for the time being in force, the person responsible for <sup>5</sup>[making such payments], shall, if he has not reason to believe that the recipient is resident in British India, and no order under <sup>8</sup>[sub-section (3B)] has been received in respect of such recipient, deduct at the time of payment

\* \* \* \* \* super-tax

<sup>1</sup> This sub section was inserted by s 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Sub sections (3A), (3B), (3C) and (3D) were respectively re numbered (3B), (3C), (3D) and (3E), *ibid*

<sup>3</sup> These words were substituted for the words "total income", *ibid*

<sup>4</sup> These words were inserted, *ibid*

<sup>5</sup> These words were substituted for the words "paying such interest", *ibid*

<sup>6</sup> The words "income tax and" were omitted, *ibid*

<sup>7</sup> These words were substituted for the words "pays to that person in any year an amount of such interest", *ibid*

<sup>8</sup> This word, figure, letter and brackets were substituted, for the word, brackets, figure and letter "sub section (3A)", *ibid*

## (Chapter IV—Deductions and Assessment)

1\* \* \* \* super tax on the amount by which <sup>2</sup>[the total amount of such payments] exceeds the maximum amount not chargeable with super-tax at the rate applicable to such excess

<sup>3</sup>[(3D)] Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the <sup>4</sup>[total world income] of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the shareholder in that year super-tax at such rate as the Income-tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year R 12-A.

<sup>5</sup>[(3E)] If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has no reason to believe that the shareholder is resident in British India, and no order under <sup>6</sup>[sub-section (3D)] has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income-tax as aforesaid) constituted the whole total income of the shareholder ] R 12-A.

(4) All

<sup>1</sup> The words "income-tax on the total amount of such interest at the rate appropriate to such total, and" were omitted by s 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "such total", *ibid*

<sup>3</sup> Sub sections (3A), (3B), (3C) and (3D) were respectively renumbered (3B), (3C), (3D) and (3E), *ibid*

<sup>4</sup> These words were substituted for the words "total income", *ibid*

<sup>5</sup> This word, figure, letter and brackets were substituted for the word, brackets, figure and letter "sub section (3C)", *ibid*

## (Chapter IV —Deductions and Assessment)

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received

(5) Any deduction made in accordance with the provisions of this section <sup>1</sup>[and any sum by which a dividend has been increased under sub-section (2) of section 16] shall be treated as a payment of income-tax <sup>2</sup>[or super-tax] on behalf of the person from whose income the deduction was made, or of the owner of the security <sup>3</sup>[or of the share-holder], as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund

<sup>4</sup>[Provided further that where such person or owner is a person whose income is included under the provisions of <sup>5</sup>[clause (c) of sub-section (1) or sub-section (3) of section 16, section 44D or section 44E] in the total income of another person <sup>6</sup>[such other person] shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year ]

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the <sup>7</sup>[Central Government] or as the <sup>8</sup>[Central Board of Revenue] directs

(7) If

<sup>1</sup> These words were inserted by s 20 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted by s 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> These words were inserted by s 20 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> This proviso was added by s 3 of the Indian Income-tax (Amendment) Act, 1937 (4 of 1937)

<sup>5</sup> These words, brackets, letters and figures were substituted for the words, brackets and figures "sub section (3) of section 16" by s 20 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> These words were substituted for the words "that person", *ibid*

<sup>7</sup> These words were substituted for the words "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>8</sup> These words were substituted for the words "Board of Inland Revenue" by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

## (Chapter IV — Deductions and Assessment)

(7) If any such person does not deduct <sup>1</sup>[or after deducting fails to pay] the tax as required by <sup>2</sup>[or under] this section, <sup>3</sup>[he, and in the cases specified in sub-sections (3D) and (3E) the company of which he is the principal officer] shall, without prejudice to any other consequences which <sup>3</sup>[he or it] may incur, be deemed to be <sup>4</sup>[an assessee] in default in respect of the tax

<sup>5</sup>[Provided that the Income-tax Officer shall not make a direction under sub-section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax.]

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery

(9) Every person deducting income-tax <sup>6</sup>[or super-tax] in accordance with the provisions of <sup>7</sup>[sub-sections (3), (3A), (3B), (3C), <sup>8</sup>[(3D) or (3E)] ], shall, <sup>9</sup>[at the time of payment of the sum from which tax has been deducted], furnish to the person to whom <sup>10</sup>[such payment is made] a certificate to the effect that income-tax <sup>6</sup>[or super-tax] has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed

[19 In

<sup>1</sup> These words were substituted for the words "and pay" by s 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted by s 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> These words were substituted for the word "he" by s 20 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words were substituted for the word "personally" by s 7 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>5</sup> This proviso was added, *ibid*

<sup>6</sup> These words were inserted, *ibid*

<sup>7</sup> These words, brackets and figures were substituted for the word, brackets and figure "sub section (3)", *ibid*

<sup>8</sup> These brackets, figures, letters and word were substituted for the word, brackets, figure and letter "or (3D)" by s 20 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> These words were substituted for the words "at the time of payments of interest or dividends", *ibid*

<sup>10</sup> These words were substituted for the words "the interest is paid" by s 2 and Sch I of the Repealing and Amending Act, 1935 (12 of 1935)

## (Chapter IV—Deductions and Assessment)

Payment in  
other cases

<sup>1</sup>[19. In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct ]

Supply of  
information  
regarding  
dividends

R. 42, 43

<sup>2</sup>[19A The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder ]

Certificate by  
company to  
shareholders  
receiving  
dividends

R 14

20. The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed

Supply of  
information  
regarding  
interest

R. 42 A,  
43-A.

<sup>3</sup>[20A The person responsible for paying any interest not being "Interest on securities" shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount not being less than <sup>4</sup>[four hundred] rupees as may be prescribed in this behalf, together with the amount paid to each such person ]

Annual return

R 15

21. The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association,

<sup>1</sup> This section was substituted by s 21 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This section was inserted by s 2 of the Indian Income tax (Amendment) Act, 1926 (24 of 1926)

<sup>3</sup> This section was inserted by s 9 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>4</sup> These words were substituted for the words "one thousand " by s 22 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter IV — Deductions and Assessment)

association, and every private employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form <sup>1</sup>[and verified in the prescribed manner]; a return in writing showing—

(a) the name and, so far as it is known, the address, of every R. 16, 17.  
person who was receiving on the said 31st day of March, or has received <sup>1</sup>[or to whom was due] during the year ending on that date, from the authority, company, body association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed,

(b) the amount of the income so received <sup>1</sup>[or so due] by each such person, and the time or times at which the same was paid <sup>2</sup>[or due, as the case may be],

(c) the amount deducted in respect of income-tax <sup>1</sup>[and super-tax] from the income of each such person

22 <sup>3</sup>[(1) The Income tax Officer shall, on or before the 1st Return of income  
day of May in each year, give notice, by publication in the press and by publication in the prescribed manner, requiring every person whose total income during the previous year exceeded the R. 18, 18-A  
19 & 19-A.  
maximum amount which is not chargeable to income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total income and total world income during that year.

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons]

(2) In

<sup>1</sup> These words were inserted by s. 23 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were added, *ibid*

<sup>3</sup> This sub section was substituted by s. 24, *ibid*.



## (Chapter IV —Deductions and Assessment)

R. 19, 19-A.

(2) In the case of any person <sup>1\*</sup> \* \* \* whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer <sup>2</sup>[may serve] a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income <sup>3</sup>[and total world income] during the previous year

<sup>4</sup>[Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made <sup>5\*</sup> \* \* \*

(4) The Income-tax Officer may serve <sup>6\*</sup> \* \* \* on any person <sup>7</sup>[who has made a return under sub-section (1) or] upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year

R. 19.

<sup>8</sup>[(5) The prescribed form of the returns referred to in sub-sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of the principal place wherein he carries on the business, profession or vocation and of any branches

<sup>1</sup> The words "other than a company" were omitted by s 24 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "shall serve", *ibid*

<sup>3</sup> These words were inserted, *ibid*

<sup>4</sup> This proviso was added, *ibid*

<sup>5</sup> The words "and any return so made shall be deemed to be a return made in due time under this section" were omitted, *ibid*

<sup>6</sup> The words "on the principal officer of any company or" were omitted, *ibid*

<sup>7</sup> These words were inserted, *ibid*

<sup>8</sup> This sub section was added, *ibid*

## (Chapter IV —Deductions and Assessment )

branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof ]

23 (1) If the Income-tax Officer is satisfied <sup>1</sup>[without re- *Assessment*<sup>t</sup> requiring the presence of the assessee or the production by him of any evidence] that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return

(2) If the Income tax Officer <sup>2</sup>[is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person], a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment

(4) <sup>2</sup>[If any person fails to make the return required by any notice given under sub-section (2) of section 22 and has not made a return or a revised return under sub-section (3) of the same section] or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment <sup>3</sup>[and determine the sum payable by the assessee on the basis of such assessment]  
[and,

<sup>1</sup> These words were inserted by s. 25 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the original words, *ibid*

<sup>3</sup> These words were inserted, *ibid*

## (Chapter IV—Deductions and Assessment)

<sup>1</sup>[and, <sup>2</sup>[in the case of a firm, may refuse to register it or may cancel its registration if it is already registered] ]

<sup>3</sup>[Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration ]

<sup>4</sup>[(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be —

- (a) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24

Provided further that when any of such partners is a person not resident in British India, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm, and

- (b) in the case of an unregistered firm, the Income-tax Officer may instead of determining the sum payable by the firm itself proceed in the manner laid down

in

<sup>1</sup> The original words were added by s 3 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>2</sup> These words were substituted for the words " in the case of a registered firm, may cancel its registration " by s 25 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> This proviso was added by s 3 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>4</sup> This sub section was added by s 25 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

*(Chapter IV —Deductions and Assessment)*

in clause (a) as applicable to a registered firm, if, in his opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm ]

<sup>1</sup>[23A. 2\* \* \* \* \*

<sup>3</sup>[(1)] <sup>3</sup>[Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company up to the end of the sixth month after its accounts for that previous year are laid before the company in general meeting increased by any income-tax payable thereon are less than sixty per cent of the assessable income of the company of that previous year, he shall, unless he is satisfied that having regard to losses incurred by the company in earlier years or to the smallness of the profit made, the payment of a dividend or a larger dividend than that declared would be unreasonable, make with the previous approval of the Inspecting Assistant Commissioner an order in writing that the undistributed portion of the assessable income of the company of that previous year as computed for income-tax purposes shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting aforesaid, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income

Power to assess individual members of certain companies

Provided that when the reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid up capital

<sup>1</sup> This section was inserted by s 4 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>2</sup> The original sub section (1) was omitted by s 26 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> The original sub section (2) was re numbered (1) and this portion was substituted, *ibid*

## (Chapter IV —Deductions and Assessment)

capital of the company, together with any loan capital which is the property of the shareholders, or the actual cost of the fixed assets of the company whichever of these is greater, this section shall apply as if instead of the words 'sixty per cent of the assessable income' the words 'one hundred per cent of the assessable income' were substituted

Provided further that no order under this sub-section shall be made where the company has distributed not less than fifty-five per cent of the assessable income of the company, unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than sixty per cent of the assessable income of the company of the previous year concerned ]

<sup>2</sup>[Provided further that this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof]

*Explanation* —For the purpose of this sub-section,—

2\*                      \*                      \*                      \*                      \*

<sup>3\*</sup> a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which

<sup>1</sup> This proviso was substituted by s. 26 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Clause (a) was omitted, *ibid*

<sup>3</sup> The brackets and letter "(b)" were omitted, *ibid*

which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in British India or are in fact freely transferable by the holders to other members of the public

5[(3)]    \*       \*       \*

(iii) Where tax is recoverable from a company 10\* + \*  
\* ^ under this sub-section a notice of demand shall be  
served upon it in the prescribed form showing the sum so pay-  
able, and such company 11\* \* + \* shall be deemed  
to be the assessee in respect of such sum, for the purposes of  
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such profits and gains are subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total income of that year

<sup>1</sup>[(5) When a company is a shareholder deemed under sub-section (1) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total income for the purpose also of the application of that sub-section to distributions of profits by that company ]

Set-off of loss  
in computing  
aggregate  
income

24. (1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year

<sup>2</sup>[Provided that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm, and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section],

<sup>3</sup>[(2) Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, under the head 'Profits and gains of business, profession or vocation', and the loss cannot be wholly set off under sub-section (1), the portion not so set off shall be carried forward to the following year and set off against the profits and gains, if any, of the assessee from the same business, profession or vocation for that year, and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on but no loss shall be so carried forward for more than six years, and a loss arising in the previous years

for

<sup>1</sup> This sub section was added by s 26 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This proviso was added by s 27, *ibid*

<sup>3</sup> Sub sections (2) and (3) were substituted for the original sub section. (2), *ibid*

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for the assessment for the years ending on the 31st day of March, 1940, the 31st day of March, 1941, the 31st day of March, 1942, the 31st day of March, 1943, and the 31st day of March, 1944, respectively, shall be carried forward only for one, two, three, four and five years, respectively

Provided that nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, to have carried forward and set off against his own income any loss sustained by the firm

Provided further that where an unregistered firm is assessed as a registered firm under clause (b) of sub-section (5) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm

Provided further that where a change has occurred in the constitution of a firm or where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains

(3) When, in the course of the assessment of the total income of any assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section ]

<sup>1</sup>[24A (1) When it appears to the Income-tax Officer that any person may leave British India during the current financial year, or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess

Assessment in  
case of  
departure  
from British  
India

<sup>1</sup> Sections 24A and 24B were inserted by s 11 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)



## (Chapter II —Deductions and Assessment)

assess him on his total income <sup>1</sup>[of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from British India, or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from British India. The assessment shall be made on the total income of each completed previous year included in such period at the rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income-tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made]

Provided that nothing herein contained shall authorise an Income-tax Officer to assess any income, profits or gains which have escaped assessment <sup>2</sup>[or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but] in respect of which he is debarred from issuing a notice under section 34

(2) For the purpose of making an assessment under sub-section (1) the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice a return in the same form and verified in the same manner as a return under sub-section (2) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years <sup>3</sup>[comprised in the relevant period referred to in the first sentence of sub-section (1) and his estimated total income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 22]

<sup>4</sup>[24B (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate

<sup>1</sup> These words were substituted for the original words by s. 28 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "or have been assessed at too low a rate", *ibid*

<sup>3</sup> These words were substituted for the words "comprised in the period first referred to in", *ibid*

<sup>4</sup> See footnote <sup>1</sup> on pre page

*(Chapter IV —Deductions and Assessment )*

estate of the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died

<sup>1</sup>[(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 22 or before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee ]

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions <sup>2</sup> of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may <sup>3</sup>[, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived,] require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person ]

25 (1) Where any business, profession or vocation <sup>4</sup>[on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act, 1918], is discontinued in any year an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year

Assessment in case of discontinued business

(2) Any

<sup>1</sup> This sub section was substituted by s 29 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> The words, brackets and figure "of sub section (2)" were omitted, *ibid*

<sup>3</sup> These words were inserted, *ibid*

<sup>4</sup> These words were substituted for the words and figures "commenced after the 31st day of March, 1922 " by s 6 of the Indian Income tax (Amendment) Act, 1924 (11 of 1924)

## (Chapter IV —Deductions and Assessment)

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance

(3) Where any business, profession or vocation <sup>1\*</sup> \* on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is discontinued, <sup>2</sup>[then unless VII of 1918. there has been a succession by virtue of which the provisions of the ~~Sub-section (4) have been rendered applicable. There is~~ the income, profits and gains of the previous year shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference

<sup>3</sup>[(4) Where the person who was at the commencement of the Indian Income-tax (Amendment) Act, 1939, carrying on VII of 1939. any business, profession or vocation on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is succeeded in such capacity by another person, the change not being merely a change in the constitution of a partnership, no tax shall be payable by the first mentioned person in respect of the income, profits and gains of the period between the end of the previous year and the date of such succession, and such person may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income,

<sup>1</sup> The words "which was in existence at the commencement of this Act and" were omitted by s. 6 of the Indian Income tax (Amendment) Act, 1924 (11 of 1924)

<sup>2</sup> These words were inserted by s. 30 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> Sub sections (4) and (5) were inserted, *ibid*

## (Chapter IV —Deductions and Assessment)

income, profits and gains of the said period, and, if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference

(5) No claim to the relief afforded under sub-section (3) or sub-section (4) shall be entertained unless it is made before the expiry of one year from the date on which the business, profession or vocation was discontinued or the succession took place, as the case may be]

<sup>1</sup>[(6)] Where an assessment is to be made under <sup>2</sup>[sub-section (1), sub-section (3), or sub-section (4)], the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section

<sup>3</sup>[25A (1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto <sup>4</sup>[assessed as] undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied <sup>5</sup>\* \* \* that the joint family property has been partitioned among the various members or groups of members in definite portions <sup>6</sup>\* \* \* he shall record an order to that effect

Assessment  
after partition  
of a Hindu  
undivided  
family

Provided

<sup>1</sup> The original sub section (4) was re numbered (6) by s 30 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words, brackets and figures were substituted for the words, brackets and figures " sub section (1) or sub section (3)", *ibid*

<sup>3</sup> This section was inserted by s 4 of the Indian Income tax (Amendment) Act, 1928 (3 of 1928)

<sup>4</sup> These words were inserted by s 3 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>5</sup> The words " that a separation of members of the family has taken place and " were omitted by s 31 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> The words " before the end of the previous year " were omitted by s 3 of the Indian Income tax (Second Amendment) Act, 1930 (22 of 1930)

## (Chapter IV —Deductions and Assessment)

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family

(2) Where such an order has been passed, <sup>1</sup>[or where any person has succeeded to a business, profession or vocation formerly carried on by a Hindu undivided family whose joint family property has been partitioned on or after the last day on which it carried on such business, profession or vocation,] the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no <sup>2</sup>\* partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it,

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23

Provided that all the <sup>3</sup>[members and groups of members whose joint family property has been partitioned] shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such ]

<sup>4</sup>[(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family ]

<sup>5</sup>[26 (1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, <sup>6</sup>[the assessment

<sup>1</sup> These words were inserted by s 31 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> The words "separation or " were omitted, *ibid*

<sup>3</sup> These words were substituted for the words "separated members and groups of members", *ibid*

<sup>4</sup> This sub section was added by s 3 of the Indian Income tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>5</sup> This section was substituted by s 5 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928)

<sup>6</sup> These words were substituted for the original words by s 32 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter IV—Deductions and Assessment)

assessment shall be made on the firm as constituted] at the time of making the assessment

<sup>1</sup>[Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners, be apportioned between the partners who in such previous year were entitled to receive the same

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment]

<sup>2</sup>[(2) Where a person carrying on any business, profession or vocation has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub-section (4) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid ]

<sup>3</sup>[26A (1) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax

Procedure in  
registration of  
firms

(2) The

<sup>1</sup> These provisos were added by s 32 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was substituted, *ibid*

<sup>3</sup> This section was inserted by s 5 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

*(Chapter IV — Deductions and Assessment )*

R 2-6-B.

(2) The application shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed ]

Cancellation of  
assessment  
when cause is  
shown

27 Where an assessee <sup>1</sup> within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23

Penalty for  
concealment  
of income or  
improper  
distribution  
of profits

<sup>2</sup>[28 <sup>3</sup>[(1)] If the Income-tax Officer, the Appellate Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or
- (b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23 or
- (c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not

<sup>1</sup> The words "or, in the case of a company, the principal officer thereof" were omitted by s 33 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This section was substituted by s 6 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>3</sup> This sub section was substituted by s 34 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter IV—Deductions and Assessment)

not exceeding one and a half times that amount, and in the cases referred to in clauses (b) and (c), in addition to any tax payable by him, a sum not exceeding one and half times the amount of the income-tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income

Provided that—

- (a) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub-section (2) of section 22,
- (b) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees,
- (c) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in British India for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him ]

(2) If the Income-tax Officer, the <sup>1</sup>[Appellate Assistant Commissioner] or the Commissioner, in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, <sup>2</sup>[in addition to the income-tax and super-tax, if any, payable by him] pay by way of penalty a sum <sup>3</sup>[not exceeding one and a half times the amount of income-tax and super-tax, which has

<sup>1</sup> These words were substituted for the words "Assistant Commissioner" by s. 34 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "in addition to the income tax payable by him", *ibid*

<sup>3</sup> These words were substituted for the words "not exceeding the amount of income-tax", *ibid*



## (Chapter IV—Deductions and Assessment)

has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income, and no refund or other adjustment shall be claimable by any other partner by reason of such deduction

(3) No order shall be made under sub-section (1) or sub-section (2) unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section

(5) An <sup>1</sup>[Appellate Assistant Commissioner] or a Commissioner, who has made an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer

<sup>2</sup>[(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner ]

Notice of  
demand  
R. 20

<sup>3</sup>[29 When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable ]

Appeal against  
assessment  
under this Act

30 (1) Any assessee objecting to the amount <sup>4</sup>[of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 or section 27], or denying his liability to be assessed under this Act, or objecting to a refusal of an Income tax Officer <sup>5</sup>[to register a firm under section 26A or] to make a fresh assessment under section 27, or <sup>6</sup>[objecting] to any order \* \* under

<sup>1</sup> These words were substituted for the words "Assistant Commissioner" by s 34 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was added, *ibid*

<sup>3</sup> This section was substituted by s 35, *ibid*

<sup>4</sup> These words and figures were substituted for the words and figures "or rate at which he is assessed under section 23 or section 27" by s 36, *ibid*.

<sup>5</sup> These words were inserted by s 12 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>6</sup> This word was inserted by s 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter IV — Deductions and Assessment)

1\* \* under sub-section (2) of section 25 <sup>2</sup>[or section 25A] <sup>3</sup>[or sub-section (2) of section 26] or section 28, made by an Income-tax Officer <sup>4</sup>[or objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46, or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49F, or to the amount of the refund allowed by the Income-tax Officer under any of those sections, and any assessee, being a company, objecting to an order made by an Income-tax Officer under sub-section (1) of section 23A], may appeal to the <sup>5</sup>[Appellate Assistant Commissioner] against the assessment or against such refusal or order

<sup>6</sup>[Provided that no appeal shall lie against an order under sub-section (1) of section 46 unless the tax has been paid]

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income ]

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to <sup>7</sup>[or of the intimation of the refusal [to

<sup>1</sup> The words "against him" were omitted by s 36 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words, figures and letter were inserted by s 4 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>3</sup> These words, brackets and figures were inserted by s 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words, brackets, figures and letters were inserted, *ibid*

<sup>5</sup> These words were substituted for the words "Assistant Commissioner", *ibid*

<sup>6</sup> These provisos were substituted, *ibid*

<sup>7</sup> These words were inserted by s 12 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

## (Chapter IV —Deductions and Assessment )

<sup>1</sup>[to pass an order under sub-section (1) of section 25A, or] to register a firm under section 26A] or of the date of the refusal to make a fresh assessment under section 27, <sup>2</sup>[or of the intimation of an order under sub-section (1) of section 23A or under section 48, 49 or 49F], as the case may be, but the <sup>3</sup>[Appellate Assistant Commissioner] may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

**R. 21** (3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

Hearing of  
appeal

31 (1) The <sup>4</sup>[Appellate Assistant Commissioner] shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing

(2) The <sup>4</sup>[Appellate Assistant Commissioner] may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer

<sup>5</sup>[(2A) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable ]

(3) In disposing of an appeal the <sup>4</sup>[Appellate Assistant Commissioner] may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment, <sup>6</sup>[and, in the case of an assessment on a firm or association of persons, authorise the Income tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association,] or

(b) set

<sup>1</sup> These words were inserted by s 2 and Sch I of the Repealing and Amending Act, 1937 (20 of 1937)

<sup>2</sup> These words, letters and figures were inserted by s 36 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words were substituted for the words " Assistant Commissioner ", *ibid*

<sup>4</sup> These words were substituted for the words " Assistant Commissioner " by s 37, *ibid*

<sup>5</sup> This sub section was inserted, *ibid*

<sup>6</sup> These words were inserted, *ibid*

## (Chapter II —Deductions and Assessment )

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the <sup>1</sup>[Appellate Assistant Commissioner] may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment <sup>2</sup>[and determine where necessary the amount of tax payable on the basis of such fresh assessment<sup>3</sup>],

<sup>3</sup>[or, in the case of an order refusing <sup>4</sup>[to register a firm under section 26A or] to make a fresh assessment under section 27,

(c) confirm such order, or cancel it and direct the Income-tax Officer <sup>5</sup>[to register the firm or to make a fresh assessment, as the case may be] ],

or, in the case of an order under sub-section (2) of <sup>6</sup>[section 25 or sub-section (1) of section 23A, or sub-section (2) of section 26 or section 48, 49 or 49F],

<sup>7</sup>[(d)] confirm, cancel or vary such order,

<sup>8</sup>[or, in the case of an order under sub-section (1) of section 25A,

(e) confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25A,

or, in the case of an order under section 28 or sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46,

(f) confirm

<sup>1</sup> These words were substituted for the words " Assistant Commissioner " by s 37 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were added, *ibid*

<sup>3</sup> These words were inserted by s 5 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>4</sup> These words were inserted by s 13 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>5</sup> These words were substituted for the words " to make a fresh assessment ", *ibid*

<sup>6</sup> These words, figures, brackets and letter were substituted for the words and figures " section 25 or section 28 " by s 37 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> Clause (c) was re-lettered clause (d) by s 5 of the Indian Income tax-(Second Amendment) Act, 1930 (22 of 1930)

<sup>8</sup> These words and clauses were inserted by s 37 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter IV —Deductions and Assessment )

(f) confirm or cancel such order or vary it so as either to enhance or reduce the penalty,  
or, in the case of an appeal against a computation of loss under section 24,

(g) confirm or vary such computation]

Provided that the <sup>1</sup>[Appellate Assistant Commissioner] shall not enhance an assessment <sup>2</sup>[or a penalty] unless the appellant has had a reasonable opportunity of showing cause against such enhancement

<sup>3</sup>[Provided further that at the hearing of any appeal against an order of an Income-tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative ]

Appeals  
against orders  
of Appellate  
Assistant  
Commissioner.

**32** (1) Any assessee objecting to an order passed by an <sup>4</sup>[Appellate Assistant Commissioner] under section 28 or to an order <sup>5</sup>[under sub-section (3) of section 31 enhancing his assessment or a penalty imposed under section 28 or sub-section (6) of section 44E or sub-section (5) of section 44F] may appeal to the Commissioner within thirty days of <sup>6</sup>[the date on which he was served with notice of such order ]

R. 22

(2) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner

(3) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit

Power of  
revision

**33** (1) The Commissioner may of his own motion call for the record or any proceeding under this Act which has been taken  
by

<sup>1</sup> These words were substituted for the words "Assistant Commissioner" by s 37 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted, *ibid*

<sup>3</sup> This proviso was added, *ibid*

<sup>4</sup> These words were substituted for the words 'Assistant Commissioner' by s 38, *ibid*

<sup>5</sup> These words were substituted for the words, brackets and figures "enhancing his assessment under sub section (3) of section 31", *ibid*

<sup>6</sup> These words were substituted for the words "the making of such order" by s 14 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

## (Chapter IV —Deductions and Assessment)

by any authority subordinate to him or by himself when exercising the powers of an <sup>1</sup>[Appellate Assistant Commissioner] under <sup>2</sup>[sub-section (5)] of section 5

(2) On receipt of the record the Commissioner may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard

**33A.** *Reference to Board of Referees Omitted by s 40 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)*

34 <sup>3</sup>[(1)] If <sup>4</sup>[in consequence of definite information which has come into his possession the Income-tax Officer discovers that] income, profits or gains chargeable to income-tax <sup>5</sup>[have escaped assessment in any year, or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act] the Income-tax Officer may, <sup>6</sup>[in any case in which he has reason to believe that the assessee has concealed the particulars of his income or deliberately furnished inaccurate particulars thereof, at any time within eight years, and in any other case at any time within four years] of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and may proceed to assess or re-assess such income, profits or gains, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub section

Income  
escaping  
assessment.

Provided

<sup>1</sup> These words were substituted for the words "Assistant Commissioner" by s 39 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This word, brackets and figure were substituted for the word, brackets and figure "sub section (4)", *ibid*

<sup>3</sup> The original section 34 was re numbered sub section (1) by s 41, *ibid*.

<sup>4</sup> These words were substituted for the words "for any reason", *ibid*

<sup>5</sup> These words were substituted for the words "has escaped assessment in any year, or has been assessed at too low a rate", *ibid*

<sup>6</sup> These words were substituted for the words "at any time within one year", *ibid*

## (Chapter IV—Deductions and Assessment)

Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be

<sup>1</sup>[Provided further that when the income, profits or gains concerned are income, profits or gains liable to assessment for a year ending prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, or where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person under section 43, this sub-section shall have effect as if for the periods of eight years and four years a period of one year were substituted ]

<sup>2</sup>[(2) No order of assessment under section 23 or of assessment or re-assessment under sub-section (1) of this section shall be made after the expiry, in any case to which clause (c) of sub-section (1) of section 28 applies, of eight years, and in any other case, of four years from the end of the year in which the income, profits or gains were first assessable ]

35 (1) <sup>3</sup>[The Commissioner or <sup>4</sup>[Appellate Assistant Commissioner] may, at any time <sup>5</sup>[within four years] from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 33 and] the Income-tax Officer may, at any time <sup>5</sup>[within four years] from the date of any <sup>6</sup>[assessment order /passed by him], on his own motion rectify any mistake apparent from the record <sup>7</sup>[of the appeal, revision or assessment] as the case may be], and shall within the like period rectify any such mistake which has been <sup>8</sup>[brought to his notice by an assessee]

Provided

<sup>1</sup> This proviso was added by s 41 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was added, *ibid*

<sup>3</sup> These words were inserted by s 6 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928)

<sup>4</sup> These words were substituted for the words " Assistant Commissioner " by s 42 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> These words were substituted for the words " within one year ", *ibid*

<sup>6</sup> These words were substituted for the words " demand made upon an assessee ", *ibid*

<sup>7</sup> These words were substituted for the words " of the assessment " by s 6 of the Indian Income tax (Amendment) Act, 1928 (3 of 1928)

<sup>8</sup> These words were substituted for the words " brought to his notice by the assessee " by s 42 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939).

## (Chapter IV—Deductions and Assessment)

Provided that no such rectification shall be made, having the effect of enhancing an assessment unless <sup>1</sup>[the Commissioner, the <sup>2</sup>[Appellate Assistant Commissioner] or the Income-tax Officer, as the case may be], has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard

<sup>3</sup>[Provided further that no such rectification shall be made of any mistake in any order passed more than one year before the commencement of the Indian Income-tax (Amendment) Act, 1939 ]

(2) Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee

(3) Where any such rectification has the effect of enhancing the assessment, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly

36 In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna

Tax to be calculated to nearest anna

37 The Income-tax Officer, <sup>4</sup>[Appellate Assistant Commissioner] and Commissioner shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely —

Power to take evidence on oath, etc.

(a) enforcing the attendance of any person and examining him on oath or affirmation,

(b) compelling the production of documents, and

(c) issuing commissions for the examination of witnesses, and any proceeding before an Income-tax Officer, <sup>4</sup>[Appellate Assistant

<sup>1</sup> These words were substituted for the words "the Income-tax Officer" by s 6 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928)

<sup>2</sup> These words were substituted for the words "Assistant Commissioner" by s 42 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> This proviso was added, *ibid*

<sup>4</sup> These words were substituted for the words "Assistant Commissioner" by s 43, *ibid*



(Chapter IV—Deductions and Assessment Chapter V.—  
Liability in Special Cases)

Assistant Commissioner] or Commissioner under this Chapter shall be deemed to be a “judicial proceeding” within the meaning of sections 193 and 228 <sup>1</sup>[and for the purposes of section 196] of the Indian Penal Code

XLV c

Power to call  
for  
information

38 The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

R 19

(1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses,

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses,

<sup>2</sup>[(3) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head “Salaries”, amounting to more than four hundred rupees, together with particulars of all such payments made]

Power to  
inspect the  
register of  
members of  
any company

39 The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register

## CHAPTER V

### LIABILITY IN SPECIAL CASES

Guardians  
trustees and  
agents

40 In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India

<sup>1</sup> These words and figures were inserted by s 6 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>2</sup> This clause was substituted by s 44 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter V —Liability in Special Cases )

India (all of which persons are hereinafter in this section included in the term beneficiary) <sup>1</sup>[being entitled to receive on behalf of such beneficiary any income], profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly

<sup>2</sup>[Provided that in the case of a beneficiary being a person residing out of British India the tax may be levied upon and recovered from him direct ]

41. <sup>3</sup>[(1)] In the case of income, profits or gains chargeable under this Act which <sup>4</sup>\* \* \* \* \*the Courts of Wards, the Administrators-General, the Official Trustees or <sup>5</sup>\* any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, <sup>6</sup>[or any trustee or trustees appointed under a duly executed trust deed, (including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), are entitled to receive on behalf of any person], the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager <sup>6</sup>[or trustee or trustees], in the like manner and to the same amount as it would be leviable upon and recoverable from <sup>7</sup>[the person on whose behalf such income, profits or gains are receivable], and all the provisions of this Act shall apply accordingly

[Provided

<sup>1</sup> These words were substituted for the words "being in receipt on behalf of such beneficiary of any income" by s 45 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This proviso was added, *ibid*

<sup>3</sup> The original section 41 was re numbered sub section (1) by s 46, *ibid*

<sup>4</sup> The words "are received by" were omitted, *ibid*

<sup>5</sup> The word "by" was omitted, *ibid*

<sup>6</sup> These words were inserted, *ibid*

<sup>7</sup> These words were substituted for the words "any person on whose behalf such income, profits or gains are received", *ibid*

## (Chapter V —Liability in Special Cases.)

<sup>1</sup>[Provided that where any such income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part ]

<sup>2</sup>[(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such person of the tax payable in respect of such income, profits or gains ]

Non residents.  
R. 33

42 (1) <sup>3</sup>[All income, profits or gains accruing or arising], whether directly or indirectly, through or from any business connection <sup>4</sup>[in British India, or through or from any property in British India, or through or from any asset or source of income in British India, or through or from any money lent at interest and brought into British India in cash or in kind], shall be deemed to be income accruing or arising within British India, and <sup>5</sup>[where the person entitled to the income, profits or gains is not resident in British India, shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case] such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax

<sup>6</sup>[Provided that where the person entitled to the income, profits or gains is not resident in British India, the income-tax so chargeable may be recovered by deduction under any of the provisions

<sup>1</sup> These provisos were added by s 46 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was added, *ibid*

<sup>3</sup> These words were substituted for the original words by s 47, *ibid*

<sup>4</sup> These words were substituted for the words "or property in British India", *ibid*

<sup>5</sup> These words were substituted for the original words, *ibid*

<sup>6</sup> These words were substituted for the words "Provided that", *ibid*

## (Chapter V —Liability in Special Cases )

provisions of section 18 and that] any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come within British India

<sup>1</sup>[Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this subsection, and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount

Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person ]

(2) Where a person not resident <sup>2</sup>[or not ordinarily resident] in British India, <sup>3</sup>\* \* \* \* \* carries on business with a **R 34** person resident in British India, and it appears to the Income-tax Officer, <sup>4</sup>\* \* \* \* \*, that owing to the close connection <sup>5</sup>[between such persons the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident] produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax

[(3) In

<sup>1</sup> These provisos were added by s 47 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted, *ibid*

<sup>3</sup> Certain words were omitted, *ibid*

<sup>4</sup> The words " or the Assistant Commissioner, as the case may be " were omitted, *ibid*

<sup>5</sup> These words were substituted for the original words, *ibid*

*(Chapter V —Liability in Special Cases )*

<sup>1</sup>[(3) In the case of a business of which all the operations are not carried out in British India, the profits and gains of the business deemed under this section to accrue or arise in British India shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in British India ]

Agent to  
include persons  
treated as  
such

43 Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent

<sup>2</sup>[Provided that where transactions are carried on in the ordinary course of business through a broker in British India in such circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first mentioned broker shall not be deemed to be an agent under this section in respect of such transactions ]

Provided <sup>3</sup>[further] that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability

Liability in  
case of a dis-  
continued firm  
or association

<sup>4</sup>[44 Where any business, profession or vocation carried on by a firm or association of persons has been discontinued, or where an association of persons is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or a member of such association shall, in respect of the income, profits and gains of the firm or association, be jointly and severally liable to assessment under Chapter IV and  
for

<sup>1</sup> This sub section was substituted by s 47 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This proviso was inserted by s 48, *ibid*

<sup>3</sup> This word was inserted, *ibid*

<sup>4</sup> This section was substituted by s 49, *ibid*

(Chapter V —Liability in Special Cases Chapter VA —Special Provisions relating to certain classes of Shipping )

for the amount of tax payable and all the provisions of Chapter IV shall, so far as may be, apply to any such assessment ]

## <sup>1</sup>[CHAPTER VA

### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING

**44A** The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act

**44B** (1) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (1), and for this purpose may call for such accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port

(3) When the profits and gains have been assessed as afore-said, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid

**44C.** Nothing

<sup>1</sup> Chapter VA was inserted by s 3 of the Indian Income-tax (Further Amendment) Act, 1923 (27 of 1923)

(Chapter VA—Special provisions relating to certain classes of Shipping Chapter VB—Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax)

Adjustment

**44C** Nothing in this Chapter shall be deemed to prevent a principal from claiming, <sup>1</sup>[in the year] following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be ]

## <sup>2</sup>[CHAPTER VB

### SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX

Avoidance of income tax by transactions resulting in the transfer of income to persons resident or ordinarily resident abroad

**44D.** (1) Where any person has, by means of a transfer of assets, by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income which if it were the income of such person would be chargeable to income-tax becomes payable to a person not resident or to a person resident but not ordinarily resident in British India, acquired any rights by virtue or in consequence of which he has within the meaning of this section power to enjoy such income, whether forthwith or in the future, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of such first mentioned person for all the purposes of this Act

(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not ordinarily resident in British India, any sum paid or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for

<sup>1</sup> These words were substituted for the words "in any year" by s 50 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Chapter VB was inserted by s 51, *ibid*

(Chapter VB—Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax)

for full consideration in money or money's worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act

(3) sub-sections (1) and (2) shall not apply if such first-mentioned person shows to the satisfaction of the Income-tax Officer either—

- (a) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation, or
- (b) that the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation

(4) For the purposes of this section, an 'associated operation' means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy income of a person not resident, or resident but not ordinarily resident, in British India, if—

- (a) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person, or
- (b) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or
- (c) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of

the



(Chapter VB—*Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax*)

the effect or successive effects of the associated operations on that income and on any assets which represent that income, or

(d) such first mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself whether with or without the consent of any other person, the beneficial enjoyment of the income, or

(e) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income

(6) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits

(7) For the purposes of this section—

(a) the expression 'assets' includes property or rights of any kind, and the expression 'transfer' in relation to rights includes the creation of those rights,

(b) the expression 'benefit' includes a payment of any kind;

(c) references to income of a person not resident or of a person not ordinarily resident in British India shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub-section (1) of section 23A, include references to so much of the income of the company for that year or period as is equal to the amount deemed to have been distributed to that person,

(d) references to assets representing any assets, income or accumulations of income include references to shares in or obligations of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred,

(e) any

(Chapter VB—Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax)

(e) any body corporate incorporated outside British India shall be treated as if it were resident out of British India whether it is so resident or not

(8) The provisions of this section shall apply for the purposes of assessment to income-tax and super-tax for the year ending on the 31st day of March, 1940, and subsequent years, and shall apply, in relation to transfers of assets and associated operations whether carried out before or after the commencement of the Indian Income-tax (Amendment) Act, 1939

(9) Where any person has been charged to tax on any income deemed to be his under the provisions of this section, and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act

44E. (1) Where the owner of any securities (in this sub-section and in sub-section (2) referred to as 'the owner') agrees to sell or transfer those securities, and by the same or any collateral agreement—

Avoidance of tax by certain transactions in securities

(a) agrees to buy back or re-acquire the securities, or

(b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of this Act to be the income of the owner and not to be the income of any other person

(2) The references in sub-section (1) to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired

(3) Where

*(Chapter VB—Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax)*

(3) Where any person carrying on a business which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—

(a) agrees to sell back or re-transfer the securities, or

(b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business

(4) Sub-section (3) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities

(5) For the purpose of this section—

(a) the expression 'interest' includes a dividend,

(b) the expression 'securities' includes stocks and shares

(c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred

(6) The Income-tax Officer may by notice in writing require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues

44F. (1) Any

(Chapter VB—Special Provisions relating to Avoidance of Liability to Income-tax and Super tax)

44F (1) Any person upon whom notice is served by the Income-tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest, and in respect of which, within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income-tax or super-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice

Avoidance of  
tax by sales  
cum dividend.

(2) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that such person has thereby avoided or would avoid more than ten per cent of the amount of the income-tax or super-tax for any year which would have been payable in his case in respect of the income from those securities if the income had been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income-tax or super-tax, then those securities shall be deemed to be securities to which sub-section (3) applies

(3) For the purposes of assessment to income-tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued

Provided that this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income-tax or super-tax was exceptional and not systematic and that there was not in his case in any of the

(Chapter VB—Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax Chapter VI—Recovery of Tax and Penalties)

three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 44E have been applied in his case in respect of such income

(4) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income-tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income-tax or super-tax

(5) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues

(6) For the purpose of this section the expression 'securities' includes stocks and shares ]

## CHAPTER VI

### RECOVERY OF TAX AND PENALTIES

Tax when payable

45 Any amount specified as payable in a notice of demand <sup>1</sup>[<sup>2</sup>under sub-section (3)] of section 23A or] under section 29 or an order under section 31 or section 32 or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30 <sup>3</sup>\* \* \*, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of

Provided

<sup>1</sup> The original words were inserted by s 8 of the Indian Income tax (Amendment) Act, 1930 (21 of 1930)

<sup>2</sup> These words, brackets and figure were substituted for the words, bracket and figure " under sub section (4) " by s 52 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> The words, figures and letter " or under section 33A " were omitted,

*(Chapter VI—Recovery of Tax and Penalties )*

<sup>1</sup>[Provided further that where an assessee has been assessed in respect of income arising outside British India in a country the laws of which prohibit or restrict the remittance of money to British India, the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which by reason of such prohibition or restriction cannot be brought into British India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed]

*Explanation*—For the purposes of this section income shall be deemed to have been brought into British India if it has been utilized or could have been utilized for the purposes of any expenditure actually incurred by the assessee without British India or if the income whether capitalized or not has been brought into British India in any form ]

46 (1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty Mode and time of recovery

<sup>2</sup>[(1A) For the purposes of sub-section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable ]

(2) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

<sup>3</sup>[Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said

<sup>1</sup> This proviso and explanation were added, by s 52 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was inserted by s 8 of the Indian Income tax (Amendment) Act, 1928 (3 of 1928)

<sup>3</sup> This proviso was added by s 16 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

## (Chapter VI—Recovery of Tax and Penalties)

the said amount have in respect of the attachment and sale of debts due to the assessee the powers which under the Code of Civil Procedure, 1908, a Civil Court has in respect of the attachment and sale of debts due to a judgment-debtor for the purpose of the recovery of an amount due under a decree ] V of 1908

(3) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3)

(5) If any assessee is in receipt of any income chargeable under the head "Salaries" the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sum so deducted to the credit of the <sup>1</sup>[Central Government], or as the <sup>2</sup>[Central Board of Revenue] directs

<sup>3</sup>[(6) If the recovery of income-tax in any area has been entrusted to a Provincial Government under section 124 (1) of the Government of India Act, 1935, the Provincial Government may direct with respect to that area or any part thereof, that income-tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered ]

(7) Save

<sup>1</sup> These words were substituted for the words "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>2</sup> These words were substituted for the words "Board of Inland Revenue" by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>3</sup> This sub section was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937

{Chapter VI—Recovery of Tax and Penalties Chapter VII—  
Refunds }

(7) Save in accordance with the provisions of sub-section (1) of section 42, <sup>1</sup>[or of the proviso to section 45], no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of <sup>2</sup>[the financial year] in which any demand is made under this Act

47 Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28, <sup>3</sup>[sub-section (6) of section 44E, sub-section (5) of section 44F] or sub-section (1) of section 46, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax Recovery of penalties

## CHAPTER VII

### REFUNDS

<sup>4</sup>[48 (1) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess Refunds  
R 36—39 &  
41.

(2) The Appellate Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers or powers of revision if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess

(3) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income

(4) Nothing

<sup>1</sup> These words were inserted by s 53 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words " the year ", *ibid*

<sup>3</sup> These words, letters, figures and brackets were inserted by s 54, *ibid*

<sup>4</sup> This section was substituted by s 55, *ibid*



## (Chapter VII—Refunds)

(4) Nothing in this section shall operate to validate : objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act ]

48A. General power to make refunds—*Repealed by Act 7 of 1939, s 58*

Relief in  
respect of  
United  
Kingdom  
Income-tax  
R 40, 41

49 (1) If any person who has paid <sup>1</sup>[by deduction under section 18 or otherwise] Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid <sup>2</sup>[by deduction or otherwise] United Kingdom income-tax <sup>3</sup>[for the corresponding year] in respect of the same part of his income and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax <sup>4</sup>[or the appropriate rate of United Kingdom income-tax, whichever is less,] and the rate at which he was entitled to, and obtained relief under that section

10 & 11 Geo  
5, c 18

<sup>5</sup>[Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief ]

(2) In sub-section (1)—

(a) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act,

— [(b) the expression

<sup>1</sup> These words and figures were inserted by s 57 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted, *ibid.*

<sup>3</sup> These words were substituted for the words "for that year", *ibid*

<sup>4</sup> These words were inserted by s 2 of the Indian Income-tax (Amendment) Act, 1934 (29 of 1934)

<sup>5</sup> This proviso was added by s 57 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter VII — Refunds )

<sup>1</sup>[(b) the expression “Indian rate of tax” means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under this section divided by his total income,]

(c) the expression “United Kingdom income-tax” means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts

<sup>2</sup>[(d) the expression “appropriate rate of United Kingdom income-tax” has the meaning assigned to that expression in section 27 of the Finance Act, 1920, as amended by the Finance Act, 1927.] 10 & 11 Geo  
5, ch

<sup>3</sup>[49A. (1) The Central Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion income-tax Relief in  
respect of  
Indian  
State and  
Dominion  
Income tax

(2) For the purposes of this section “Dominion income-tax” means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty’s Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section

49B Where a shareholder has received a dividend from a company which has paid income-tax imposed in British India or elsewhere, he shall be deemed, in respect of such dividend, Payment of  
income tax  
by company  
to be deemed  
payment by  
shareholder  
himself

<sup>1</sup> This clause was substituted by s 57 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This clause was added by s 2 of the Indian Income-tax (Amendment) Act, 1934 (29 of 1934)

<sup>3</sup> Sections 49A to 49D were inserted by s 58 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter VII—Refunds)

himself to have paid the income-tax (exclusive of super-tax) paid by the company on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company has paid such income-tax bears to the whole income of the company

Relief granted to a company to be deemed relief granted to shareholder

**49C** (1) Where a shareholder has received a dividend from a company which has obtained the relief referred to in section 49 or granted under section 49A or under the India and Burma (Income-tax Relief) Order, 1936, he shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted, in respect of income-tax only, to the company for the financial year preceding the year in which the dividend was paid

(2) If the rate at which a shareholder is deemed under subsection (1) to have obtained relief exceeds the rate at which he would have been entitled to relief had such relief been given direct to him by or under the said sections or Order, any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under section 23 or section 34 or by setting it off against any relief due to him under section 48

Relief in respect of tax charged in country not providing for relief in respect of British Indian income tax

**49D** If any person who has paid by deduction or otherwise Indian income-tax for any year in respect of any income arising without British India in a country the laws of which do not provide for any relief in respect of income-tax charged in British India proves that he has paid income-tax by deduction or otherwise under the laws of the said country in respect of the same income, he shall be entitled to the deduction from the Indian income-tax payable of a sum equal to one half of such Indian income-tax or to one-half of such tax payable in the said country, whichever is the less ]

Power to set off amount of refunds against tax remaining payable

<sup>1</sup>[**49E**] Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, <sup>2</sup>[Appellate Assistant Commissioner] or Commissioner, as the

<sup>1</sup> The existing section 49E was originally inserted as section 49A by s 19 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933) and was re-numbered by s 59 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words "Assistant Commissioner" *ibid*

(Chapter VII—Refunds)

as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the tax, if any, remaining payable by the person to whom the refund is due

<sup>1</sup>[49F] Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48 <sup>2\*</sup> or 49, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate

Power of representative of deceased person or person disabled to make claim on his behalf

50 No claim to any refund of income-tax <sup>3</sup>[or super-tax] under this Chapter shall be allowed, unless it is made within <sup>4</sup>[four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India

Limitation of claims for refund

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered or before the last day of the financial year commencing after the expiry of the previous year as defined in clause (11) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later ]

<sup>5</sup>[Provided <sup>6</sup>[further] that a claim to refund under section 49 <sup>7</sup>[of tax paid prior to the commencement of the Indian Income-tax

<sup>1</sup> The existing section 49F was originally inserted as section 49B by s 19 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933) and was re numbered by s 60 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> The word, figures and letter " or 48A " were omitted, by s 60 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words were inserted by s 61, *ibid*

<sup>4</sup> These words were substituted, *ibid*

<sup>5</sup> This proviso was added by s 8 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>6</sup> This word was inserted by s 61 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> These words, brackets and figures were inserted, *ibid*

## (Chapter VII—Refunds Chapter VIII—Offences and Penalties)

Income-tax (Amendment) Act, 1939], may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period ]

50A *Appeal against refusal of refund—Omitted by s. 62 of the Indian Income-tax (Amendment) Act 1939 (7 of 1939)*

## CHAPTER VIII

## OFFENCES AND PENALTIES

Failure to  
make  
payments  
or deliver  
returns or  
statements or  
allow  
inspection

51 If a person fails without reasonable cause or excuse—

- (a) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46,
- (b) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished,
- (c) to furnish in due time any of the returns mentioned in <sup>1</sup>[section 19A], <sup>2</sup>[section 20A], section 21, <sup>3</sup>[sub-section (2) of] section 22, or section 38,
- (d) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice,
- (e) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues

52 If

<sup>1</sup> This word, figures and letter were inserted by s. 3 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926)

<sup>2</sup> This word, figures and letter were inserted by s. 21 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> These words, brackets and figure were inserted by s. 63 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter VIII—Offences and Penalties)

52 If a person makes a statement in a verification mentioned in <sup>1</sup>[section 19A or] <sup>2</sup>[section 20A <sup>3</sup>[or section 21] or] <sup>4</sup>[or section 22 <sup>4</sup>[or sub-section (2) of section 26A] or sub-section (3) of section 30, or sub-section (2) of section 32 <sup>5</sup>\* \* \* \*], which is false, and which he either knows or believes to be false, or does not believe to be true, he shall <sup>6</sup>[be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both]

False statement in declaration

53 (1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the <sup>7</sup>[Inspecting Assistant Commissioner]

Prosecution to be at instance of Inspecting Assistant Commissioner

<sup>8</sup>[(2) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence]

54 (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require

Disclosure of information by a public servant

<sup>1</sup> These words and figures were inserted by s 4 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926)

<sup>2</sup> These words and figures were inserted by s 22 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> These words and figures were inserted by s 64 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words, brackets and figures were inserted by s 9 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930)

<sup>5</sup> The words, brackets, letters and figures "or sub section (2) of section 33A or sub section (3) of section 50A" were omitted by s 64 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> These words were substituted for the words "be deemed to have committed the offence described in section 177 of the Indian Penal Code", *ibid*

<sup>7</sup> These words were substituted for the words "Assistant Commissioner" by s 65, *ibid*

<sup>8</sup> This sub section was substituted, *ibid*

## (Chapter VIII —Offences and Penalties )

quire any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

<sup>1</sup> (3) Nothing in the section shall apply to the disclosure—

- (a) of any such particulars for the purposes of a prosecution under <sup>2</sup> the Indian Penal Code in <sup>XLV of 1860</sup> respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- <sup>3</sup>[(d) of any such particulars to a Civil Court in any suit to which Government is a party, which relates to any matter arising out of any proceeding under this Act, or
- (e) of any such particulars to the Auditor General of India for the purpose of enabling him to discharge his functions under section 144 of the Government of India Act, 1935, or
- (f) of any such particulars to any officer appointed by the Auditor General of India or the Central Board of Revenue to audit income-tax receipts or refunds, or
- (g) of

<sup>1</sup> The words " Provided that " were omitted and the proviso numbered as sub section (3) by s 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> The words and figures " section 193 of " were omitted by s 9 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>3</sup> These clauses were inserted by s 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter VIII —Offences and Penalties )

(g) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850, or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the Government of India Act, 1935, when exercising its functions in relation to any matter arising out of any such inquiry, or]

<sup>1</sup>[<sup>1</sup>(h)] of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document, or]

<sup>2</sup>(i) of such facts, to an authorised officer of the United Kingdom, or of any Indian State or of any part of His Majesty's Dominions which has entered into an agreement with British India for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 of this Act to be given, or

(j) of such facts, to an officer of a Provincial Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it on agricultural income, or

(k) of such facts, to any authority exercising powers under the Sea Customs Act, 1878, or any Act of the Central Legislature imposing a duty of excise as may be necessary for enabling it duly to exercise such powers, or

(l) of such facts, to a Returning Officer, as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or

(m) so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax

in any

<sup>1</sup> The original clause (c) was inserted by s. 23 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933) and was re-lettered as clause (h) by s. 66 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These clauses were substituted for the original clause (d), *ibid*



(Chapter VIII—Offences and Penalties Chapter IX—  
Super-tax)

in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established ]

1[1\* ~ \* 1[(j)] Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under 2[section 25A or] section 26A, or to the giving of evidence by a public servant in respect thereof ]

3\* ~ \* 3[(5)] No prosecution shall be instituted under this section except with the previous sanction of the Commissioner

## CHAPTER IX

## SUPER-TAX

Charge of  
super-tax

55 In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any 4[individual, Hindu undivided family, 5[company, local authority, unregistered firm or other association of persons], not being a registered firm], 6[or the partners of the firm or members of the association individually,] an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the 7[Central Legislature]

[Provided

<sup>1</sup> From the original proviso which was inserted by s 10 of the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), the words "Provided further that" were omitted and the proviso numbered as sub section (4) by s 66 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words, letter and figure were inserted, *ibid*

<sup>3</sup> The words "Provided further that" were omitted and the proviso numbered as sub section (5), *ibid*

<sup>4</sup> These words were substituted for the words "individual, unregistered firm, Hindu undivided family or company" with effect from 1st April, 1923, by ss 7 and 11 of the Indian Income tax (Amendment) Act, 1924 (11 of 1924)

<sup>5</sup> These words were substituted for the words "company, unregistered firm or other association of individuals" by s 67 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> These words were inserted, *ibid*

<sup>7</sup> These words were substituted for the words "Indian Legislature" by the Government of India (Adaptation of Indian Laws) Order, 1937

(Chapter IX—<sup>3</sup>Super-tax)

<sup>1</sup>[Provided that where under the provisions of clause (b) of sub-section (5) of section 23 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself ]

Provided <sup>2</sup>[further] that, where the profits and gains of an unregistered firm <sup>3</sup>[or other association of persons not being a company] have been assessed to super-tax, super-tax shall not be payable by <sup>4</sup>[a partner of the firm or a member of the association, as the case may be], in respect of the amount of such profits and gains which is proportionate to his share

56 Subject to the provisions of this Chapter, the total income of any <sup>5</sup>[individual, Hindu undivided family, company, <sup>6</sup>[local authority], unregistered firm or other <sup>7</sup>[association of persons] ] shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year

Total income  
for purposes of  
super-tax.

8\* \* \* \* \*

57 *Non resident partners and shareholders*—Omitted by s 69 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

58 (1) All

<sup>1</sup> This proviso was inserted by s 67 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This word was inserted, *ibid*

<sup>3</sup> These words were inserted *ibid*

<sup>4</sup> These words were substituted for the words "an individual having a share in the firm", *ibid*

<sup>5</sup> These words were substituted for the words "individual, unregistered firm, Hindu undivided family or company," by ss 8 and 11 of the Indian Income tax (Amendment) Act, 1924 (11 of 1924), with effect from 1st April, 1923

<sup>6</sup> These words were inserted by s 68 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> These words were substituted for the words "association of individuals", *ibid*

<sup>8</sup> The proviso was omitted by s 10 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928)

## (Chapter IX —Super-tax )

Application of  
Act to  
super-tax

58 (1) All the provisions of this Act, <sup>1</sup>[relating to the charge, assessment, collection and recovery of income-tax except those contained in] section 3, <sup>2</sup>[the second proviso] to sub-section (1) of section 7, <sup>3</sup>[the second and third provisos to section 8], sub-section (2) of section 14, and sections 15 <sup>4\*</sup> <sup>5\*</sup> 19, <sup>6</sup>[and 20 and the first proviso to sub-section (1) of section 41 and section] <sup>7\*</sup> <sup>8</sup>[<sup>9\*</sup> 58F and <sup>10</sup>[sub-section (2)] of section 58G] shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax

11\*

..

..

\*

\*

\*

(2) Save as provided in <sup>12</sup>[<sup>13</sup>[sub-sections (2), (2A), (2B), (3B), (3C), (3D) and (3E)] of section 18,] <sup>14\*</sup> \* <sup>15</sup>[and section 58H] super-tax shall be payable by the assessee direct

## [CHAPTER IXA

<sup>1</sup> These words were substituted for the word "except" by s 25 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>2</sup> These words were substituted for the words "the proviso" by s 70 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> These words and figure were substituted for the words and figure "the provisos to section 8" by s 25 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>4</sup> The figures "17" were omitted by s 70 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> The figures "18" were omitted by s 25 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>6</sup> These words, figures and brackets were substituted for the figures "20" by s 70 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> The figures "21" were omitted, *ibid*

<sup>8</sup> These words, figures and letters were substituted for the word and figures "and 48" by s 25 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>9</sup> The figures "48" were omitted by s 70 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>10</sup> This word, the brackets and figure were substituted for the words, brackets and figures "sub sections (2) and (3)", *ibid*

<sup>11</sup> The proviso was omitted by s 25 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>12</sup> These words, brackets, figures and letters were inserted, *ibid*

<sup>13</sup> These words, brackets, figures and letters were substituted for the words, brackets, figures and letters "sub sections (3A), (3B), (3C) and (3D)" by s 70 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>14</sup> The word and figures "section 57" were omitted, *ibid*

<sup>15</sup> These words, figures and the letter were inserted by s 4 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929)

(Chapter IXA —Special Provisions relating to certain classes of Provident Funds )

<sup>1</sup>[CHAPTER IXA

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

58A In this Chapter, unless there is anything repugnant Definition in the subject or context,—

(a) a “recognised provident fund” means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter,

(b) an “employer” means—

(i) a Hindu undivided family, company, firm or other association of <sup>2</sup> \* persons, or

(ii) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10, <sup>3</sup> + maintaining a provident fund for the benefit of his or its employees,

(c) an “employee” means an employee participating in a provident fund, but does not include a personal or domestic servant,

(d) a “contribution” means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest,

(e) the “balance to the credit” of an employee means the total amount to the credit of his individual account in a provident fund at any time,

(f) the “annual accretion” to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest,

(g) the

<sup>1</sup> This chapter was inserted by s 5 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929)

<sup>2</sup> The words “individuals or” were omitted by s 71 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> The words and figures “or section 11” were omitted, *ibid*

## (Chapter IXA—Special Provisions relating to certain classes of Provident Funds)

(g) the “accumulated balance due” to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund, and

(h) the “regulations of a fund” means the special body of regulations governing the constitution and administration of a particular provident fund

The according  
and withdrawal  
of recognition

**58B.** (1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions

1\* \* \* \* \*

<sup>1</sup>[(2)] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made

<sup>1</sup>[(3)] An order withdrawing recognition shall take effect from the day on which it is made

<sup>1</sup>[(4)] An employee objecting to an order of the Commissioner refusing to recognise <sup>2</sup>[or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue

Conditions to  
be satisfied by  
a recognised  
provident  
fund

**58C** (1) In order that a provident fund may receive and retain recognition it shall satisfy the conditions set out below

and any

<sup>1</sup> Sub section (2) was omitted and sub sections (3), (4) and (5) were re-numbered as (2), (3) and (4) respectively, by s 72 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were inserted, *ibid*

(Chapter IXA —Special Provisions relating to certain classes of Provident Funds)

and any other conditions which the <sup>1</sup>[Central Government] may, by rule, prescribe—

(a) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in British India

(b) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and periodical payment of such salary in that year, and credited to the employee's individual account in the fund

(c) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year

(d) The fund shall consist of contributions as above specified, of accumulations thereof, and of interest (simple and compound), credited in respect of such contributions and accumulations, and of securities purchased therewith, and of no other sums

(e) The fund shall be vested in two or more trustees <sup>2</sup>[or in the Official Trustee] under a trust which shall not be revocable save with the consent of all the beneficiaries

(f) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund

In such

<sup>1</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>2</sup> These words were inserted by s. 2 of the Indian Income-tax (Amendment) Act, 1931 (4 of 1931)

(Chapter IXA—Special Provisions relating to certain classes of Provident Funds)

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund

(g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund

(h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the <sup>1</sup>[Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund

Power to relax restrictions of employer's contributions in certain cases

**58D** Subject to any rules which the <sup>1</sup>[Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (c) of sub-section (1) of section 58C—

(a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem, and

(b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund

**58E.** The

<sup>1</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

*(Chapter IXA—Special Provisions relating to certain classes of Provident Funds)*

**58E.** The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income-tax and super-tax

Annual accretion deemed to be income received

Provided that, for the purpose of sub-section (3) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income

**58F.** (1) An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year

Exemption of annual accretion from income tax

<sup>1</sup>[or six thousand rupees, whichever is less ]

(2) <sup>2</sup>[Interest credited on the accumulated balance of any employee in a recognised provident fund shall be exempt from payment of income-tax, if and in so far as it does not exceed one-third of the salary of the employee for the year concerned and] in so far as it is allowed at a rate not exceeding such rate as the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[official Gazette], fix in this behalf

**58G.** <sup>5</sup>[(1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E up to the first day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933, had come into force on the 15th March, 1930 ]

Exemption of accumulated balance from income tax and super-tax

<sup>5</sup>[(2)] Where an employee participating in a recognised provident fund has rendered continuous service with his employer for

<sup>1</sup> These words were added by s 73 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the original words, *ibid*

<sup>3</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>4</sup> These words were substituted for the words "Gazette of India", *ibid*

<sup>5</sup> Sub section (1) was inserted and original sub section (1) was re-numbered (2) by s 26 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)



(Chapter IXA—Special Provisions relating to certain classes of Provident Funds)

for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax <sup>1</sup>\* \* \* and shall be excluded from the computation of his total income

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee

<sup>2</sup>[(3)] Where exemption from payment of income-tax is not allowed under the provisions of <sup>3</sup>[sub-section (2)], the Income-tax Officer shall calculate the total of the various sums of income-tax <sup>4</sup>[and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable

Deduction at source of Income tax payable on accumulated balances due

**58H.** The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under <sup>5</sup>[sub-section (3)] of section 58G and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section

<sup>1</sup> The words "and super tax" were omitted by s 26 of the Indian Income tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>2</sup> Original sub section (2) was re numbered (3) by s 26 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> This word, brackets and figure were substituted for the word, brackets and figure "sub section (1)", *ibid*

<sup>4</sup> These words were substituted for the original words by s 74 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> This word, brackets and figure were substituted for the word, brackets and figure "sub section (2)" by s 2 and Sch I of the Repealing and Amending Act, 1934 (24 of 1934)

of 1922 ]

Indian Income-tax

In Provisions relating to certain classes  
(Chapter IXA —Special Provident Funds)

of sections (4) to (9) of section 18 shall  
be deducted we re income-tax payable

under the head "Salaries of a recognised provident fund shall Accounts of  
be maintained by the trustees of the fund and shall be in such recognised  
form and for such period as the Central Board of Revenue may prescribe provident funds

58I (1) The accounts shall be maintained by the trustees of the fund, and shall contain such particulars as  
the Central Board of Revenue may prescribe in respect of the fund and the trustees shall

(2) The accounts shall be submitted to the Income-tax authorities, and the trustees shall  
furnish to the Income-tax Officer such abstracts thereof as the  
Central Board of Revenue may prescribe

58J (1) Where recognition is accorded to a provident fund Treatment of  
with existing balances, an account shall be made of the fund balances in  
up to the day before the day on which the recognition takes newly  
effect, showing the particulars of each employee on recognised  
such day, and containing such further particulars as the Central Board of Revenue may prescribe provident funds

(2) The account shall show the amount of the credit of each employee's account transferred to that employee's account (hereinafter referred to as the balance) shall be shown on the date of recognition, and sub-section (3) and (4) shall

Any portion of the balance to the credit of an employee in  
the existing fund which is not transferred to the recognised  
fund shall be excluded from the account of the recognised fund  
and shall be liable to super-tax in accordance with this Chapter

(3) Subject to such rules as the Central Board of Revenue  
may make in this behalf, the Income-tax Officer shall make a  
calculation of the aggregate of all sums liable to income-tax if  
transferred balance which would have been in force from the date of the institution  
this Chapter had been in force from the date of the institution  
of the fund, without regard to any tax which may have been  
paid on any such sum, and such aggregate (if any) shall be  
deemed to be income received by the employee in the year in  
which

*(Chapter IXA—Special Provisions relating to certain classes of Provident Funds)*

which the recognition of the fund takes effect, and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate

(4) Notwithstanding anything contained in condition (h) of sub-section (1) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful -

Treatment of fund transferred by employee to trustee

**58K** (1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund the amount so transferred shall be deemed to be of the nature of capital expenditure

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, <sup>1</sup>[if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee,] be deemed to be an expenditure

<sup>1</sup> These words were inserted by s 75 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

*(Chapter IXA.—Special Provisions relating to certain classes of Provident Funds)*

expenditure by the employer within the meaning of <sup>1</sup>[clause (xi)] of sub-section (2) of section 10, incurred in the year in which the accumulated balance due to the employee is paid

**58L** (1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59 Provisions relating to rules

(2) In addition to any power conferred by this Chapter, the <sup>2</sup>[Central Government] may make rules—

- (a) prescribing the statements and other information to be submitted with an application for recognition,
- (b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company,
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund,
- (d) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn, and
- (e) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as <sup>3</sup>[it] may deem requisite

**58M** This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925, applies Application of this Chapter

[CHAPTER IXB

<sup>1</sup> This word, brackets and figures were substituted for the word, brackets and figures " clause (ix) " by s 75 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> These words were substituted for the words " Governor General in Council " by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>3</sup> This word was substituted for the word " he ", *ibid*

(Chapter IXB—*Special Provisions relating to certain classes of Superannuation Funds*)

<sup>1</sup>[CHAPTER IXB

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPER-  
ANNUATION FUNDS

Definitions

58N In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) 'approved superannuation fund' means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter,
- (b) 'employer', 'employee' and 'contribution' have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds,
- (c) 'ordinary annual contribution' means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund

Approval and  
withdrawal of  
approval

58O. (1) The Central Board of Revenue may accord approval to any superannuation fund or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the fund or part cease to warrant the continuance of the approval

(2) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions

(3) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of  
a superannuation

<sup>1</sup> Chapter IXB was inserted by s 70 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

(Chapter IXB —Special Provisions relating to certain classes of Superannuation Funds )

a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter

**58P** In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely — Conditions for approval

- (a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in British India,
- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons, and
- (c) the employer in the trade or undertaking shall be a contributor to the fund

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

- (i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or
- (ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or
- (iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in British India

**58Q** (1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Income-tax Officer, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts

have

(Chapter IXB—Special Provisions relating to certain classes of Superannuation Funds)

have been made up. The Central Board of Revenue may require such further information to be supplied as it thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall, unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

Exemption of  
superannuation  
fund from  
income tax

**58R.** Income derived from investments or deposits of an approved superannuation fund shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply.

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution.

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of this section, be treated, as the Central Board of Revenue may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of Revenue thinks proper.

Treatment of  
repaid contri-  
butions

**58S. (1)** Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax and super-tax to be income of the employee for that year.

R 10, 11(1)—  
11(4)

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment,

income-tax

(Chapter IXb —Special Provisions relating to certain classes of Superannuation Funds)

income-tax on the amount so repaid or paid shall except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax and super-tax during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct

**58T.** Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21

Deduction from pay of, and contributions on behalf of, employee to be included in return under section 21

**58U** If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

Liabilities of trustees on cessation of approval of fund

(a) on account of returned contributions (including interest on contributions, if any), and

(b) in commutation or in lieu of annuities,

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter

**58V.** The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice —

Particulars to be furnished in respect of superannuation funds

(a) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require

(b) prepare and deliver to the Income-tax Officer a return containing—

(i) the name and place of residence of every person in receipt of an annuity from the fund,

(ii) the amount of the annuity payable to each annuitant, (ii) particulars



(Chapter IXB—Special Provisions relating to certain classes of Superannuation Funds Chapter X—Miscellaneous)

- (iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees, and
- (iv) particulars of sums paid in commutation or in lieu of annuities,
- (c) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require ]

## CHAPTER X

### MISCELLANEOUS

Power to  
make rules

59 (1) The <sup>1</sup>[Central Board of Revenue] may, subject to the control of the <sup>2</sup>[Central Government], make rules<sup>3</sup> for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

R 23—24

- (i) incomes derived in part from agriculture and in part from business,

4\*                      \*                      \*                      \*                      \*

R 33—34

- <sup>4</sup>[(ii)] persons residing out of British India,

(b) prescribe

<sup>1</sup> These words were substituted for the words "Board of Inland Revenue" by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>2</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>3</sup> For such rules, see General Statutory Rules and Orders, Vol V, pp 50—79

<sup>4</sup> The original sub clause (ii) was omitted and sub clause (iii) re-numbered (ii) by s 77 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).

(Chapter X —Miscellaneous )

(b) prescribe the procedure to be followed on applications R 36—41-  
for refunds,

(c) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 49 of this Act,

(d) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920, and

(e) provide for any matter which by this Act is to be prescribed

<sup>1</sup>[(3) In cases coming under clause (a) of sub-section (2), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

(a) prescribe methods by which an estimate of such income, profits and gains may be made, and

(b) in cases coming under sub-clause (i) of clause (a) of sub-section (2) prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act ]

<sup>2</sup>[(4)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication

<sup>2</sup>[(5)] Rules made under this section shall be published in the <sup>3</sup>[official Gazette], and shall thereupon have effect as if enacted in this Act

60 [(1)] The

<sup>1</sup> This sub section was inserted by s 2 of the Indian Income-tax (Amendment) Act, 1927 (28 of 1927)

<sup>2</sup> This sub section was re numbered by s 2 of the Indian Income-tax (Amendment) Act, 1927 (28 of 1927)

<sup>3</sup> These words were substituted for the words "Gazette of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

(Chapter X—Miscellaneous)

Power to  
make  
exemptions  
etc

60 <sup>1</sup>[(1)] The <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[official Gazette], make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons

<sup>4</sup>[(2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, <sup>5</sup>[or by reason of his having received in any one financial year salary for more than twelve months], <sup>6</sup>[or a payment which is under the provisions of sub-section (1) of section 7 a profit in lieu of salary] his income is assessed at a rate higher than that at which it would otherwise have been assessed, the <sup>2</sup>[Central Government] may grant <sup>7</sup>[the appropriate relief]

<sup>8</sup>[(3) After the commencement of the Indian Income-tax (Amendment) Act, 1939, the power conferred by sub-section (1) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made]

Appearance by  
authorised re-  
presentative

<sup>9</sup>[61 (1) Any assessee, who is entitled or required to attend before any Income-tax authority in connection with any proceeding under this Act otherwise than when required under section 37 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income-tax practitioner, and not being disqualified by or under sub-section (3)

(2) In

<sup>1</sup> Original s 60 was re-numbered as sub section (1) by s 10 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>2</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>3</sup> These words were substituted for the words "Gazette of India", *ibid*

<sup>4</sup> This sub section was added by s 10 of the Indian Income tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>5</sup> These words were inserted by s 27 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>6</sup> These words, brackets and figures were inserted by s 78 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> These words were substituted for the words "such relief as it may think fit", *ibid*

<sup>8</sup> This sub section was added, *ibid*

<sup>9</sup> This section was substituted by s 79, *ibid*

## (Chapter X.—Miscellaneous )

(2) In this section,—

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings,

(ii) “lawyer” means a Barister-at-Law or Solicitor or any other person entitled to plead in any Court of law in British India,

(iii) “accountant” means a registered accountant enrolled R 44  
in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue,

(iv) “Income-tax practitioner” means—

(a) any person who, before the 1st day of April, 1938, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee,

(b) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue, or R 45.

(c) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose R 46.

(3) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub-section (1), and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1)

Provided that—

(a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(b) any  
111

## (Chapter X —Miscellaneous )

(b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and

(c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal ]

Receipts to  
be given

62 A receipt shall be given for any money paid or recovered under this Act

Service of  
notices

63 (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908

V of 1908

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or <sup>1</sup>[to the] manager, or any adult male member of the family <sup>2</sup>[and, in the case of any other <sup>3</sup>[association of persons] be addressed to the principal officer thereof]

Place of  
assessment

64 (1) Where an assessee carries on <sup>4</sup>[a business, profession or vocation] at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the <sup>4</sup>[business, profession or vocation] is carried on in more places than one, by the Income-tax Officer of the area in which <sup>5</sup>[the principal place of his business, profession or vocation] is situate

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more

<sup>1</sup> These words were substituted for the words "on the " by s 2 and Sch I of the Repealing and Amending Act, 1924 (7 of 1924)

<sup>2</sup> These words were added by s 9 of the Indian Income tax (Amendment) Act, 1924 (11 of 1924)

<sup>3</sup> These words were substituted for the words "association of individuals" by s 80 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> These words were substituted for the word "business " by s 81, *ibid*

<sup>5</sup> These words were substituted for the words "his principal place of business ", *ibid*

## (Chapter X — Miscellaneous)

more provinces than one, by the Commissioner or, if they are not in agreement, by the [ ] of Revenue]

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views

<sup>2</sup>[Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 22 and has stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 22 or under section 34 for the making of a return

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made ]

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed

65 Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof

66 (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court

Statement of case by Commissioner to High Court

(2) [Within

<sup>1</sup> These words were substituted for the words " Board of Inland Revenue " by s 4 and Sch of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>2</sup> These provisos were added by s 81 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter X —Miscellaneous )

(2) <sup>1</sup>[Within sixty days of the date on which he is served with notice of an order under section 31 or section 32], <sup>2</sup>[or of an order under section 33 enhancing an assessment or otherwise prejudicial to him], <sup>3</sup>\* \* \*, the assessee in respect of whom the order <sup>4</sup>\* was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order <sup>4</sup>\* and the Commissioner shall, within <sup>5</sup>[sixty days] of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court

<sup>6</sup>[Provided that a reference shall lie from an order under section 33 only on a question of law arising out of that order itself, and not on a question of law arising out of a previous order under section 31 <sup>7</sup>\* \*, revised by the order under section 33 ]

Provided <sup>8</sup>[further] that, if, in exercise of his power of <sup>9</sup>[revision] under section 33, the Commissioner decides the question, <sup>10</sup>[or if the Commissioner rejects the application on the ground that it is time-barred or otherwise incompetent, or if, in exercise of his powers under sub-section (3), the Commissioner refuses to state the case.] the assessee may <sup>10</sup>[within thirty days from the date on which he receives notice of

<sup>1</sup> These words were substituted by s 11 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>2</sup> These words were inserted by s 28 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> The words " or of a decision by a Board of Referees under section 33A " were omitted by s 82 of the Indian Income tax (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> The words " or decision " were omitted, *ibid*

<sup>5</sup> These words were substituted for the words " one month " by s 11 of the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)

<sup>6</sup> This proviso was inserted by s 28 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>7</sup> The words and figures " or section 32 " were omitted by s 82 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>8</sup> This word was inserted by s 28 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>9</sup> This word was substituted for the word " review " by s 11 of the Indian Income-tax (Amendment) Act, 1928 (3 of 1928)

<sup>10</sup> These words were inserted by s 28 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

## (Chapter X—Miscellaneous)

of the order passed by the Commissioner] withdraw his application, and if he does so, the fee paid shall be refunded

(3) If, on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may <sup>1</sup>[within six months from the date on which he is served with notice of the refusal] apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly

<sup>2</sup>[(3A) If, on any application being made under sub-section (2), the Commissioner rejects it on the ground that it is time-barred, the assessee may, within two months from the date on which he is served with notice of the order of the Commissioner, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to treat the application as made within the time allowed under sub-section (2)]

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any Income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment

(6) Where

<sup>1</sup> These words were inserted by s. 10 of the Indian Income-tax (Amendment) Act, 1924 (11 of 1924).

<sup>2</sup> This sub-section was inserted by s. 28 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)



## (Chapter X —Miscellaneous )

(6) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow <sup>1</sup>[unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to His Majesty in Council, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to His Majesty in Council ]

<sup>2</sup>[(7A) Section 5 of the Indian Limitation Act, 1908, shall ~~IX of 1908~~ apply to an application to the High Court by an assessee under sub-section (3) or sub-section (3A) ]

<sup>3</sup>[(8) For the purposes of this section "the High Court" means—

(a) in relation to <sup>4</sup> \* \* \* British Baluchistan, the High Court of Judicature at Lahore,

(b) in relation to the province of Ajmer-Merwara, the High Court of Judicature at Allahabad, and

(c) in relation to the province of Coorg, the High Court of Judicature at Madras ]

<sup>5</sup>[66A. (1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908

<sup>1</sup> These words were added by s. 82 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> This sub section was inserted by s. 28 of the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)

<sup>3</sup> This sub section was added by s. 7 of the Indian Income tax (Amendment) Act, 1926 (24 of 1926)

<sup>4</sup> The words " the North-West Frontier Province and " were omitted by s. 82 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> This section was inserted by s. 8 of the Indian Income-tax (Amendment) Act, 1926 (24 of 1926)

## (Chapter X—Miscellaneous )

1908, shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force

<sup>1</sup>[Provided that where in any reference heard by the Bench of the Court of the Judicial Commissioner of the North-West Frontier Province, a difference of opinion arises between the Judicial Commissioner and the Judge of the said Court, the opinion of the Judicial Commissioner shall prevail ]

(2) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66

Provided further that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court

(5) Nothing in this section shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to

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<sup>1</sup> This proviso was added by s 83 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939)

## (Chapter X —Miscellaneous )

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee ]

Bar of suits  
in Civil Courts

67 No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any <sup>1</sup>[Officer of the Crown] for anything in good faith done or intended to be done under this Act

Computation  
of periods of  
limitation

<sup>2</sup>[67A. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded ]

68 [*Repeals* ] *Repealed by the Repealing Act, 1927 (12 of 1927)*

[ THE SCHEDULE

<sup>1</sup> These words were substituted for the words "Government Officer" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>2</sup> This section was inserted by s 12 of the Indian Income tax (Second Amendment) Act, 1930 (22 of 1930)

*(Schedule—Rules for the computation of the Profits and Gains of Insurance Business)*

## 1[THE SCHEDULE

[See section 10 (7) ]

## RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS

1 In the case of any person who carries on, or at any time in the preceding year carried on, life insurance business, the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business

2 The profits and gains of life insurance business shall be taken to be either—

- (a) the gross external incomes of the preceding year from that business less the management expenses of that year, or
- (b) the annual average of the surplus disclosed by the actuarial valuation made for the last inter valuation period ending before the year for which the assessment is to be made, after adjusting such surplus so as to exclude from it any surplus or deficit included therein which was made in any earlier inter valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business,

whichever is the greater

Provided that the amount to be allowed as management expenses shall not exceed—

- (a)  $7\frac{1}{2}$  per cent of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*
- (b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums received is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year  $7\frac{1}{2}$  per cent of such first year's premiums received during the preceding year, *plus*
- (c) 85 per cent of the first year's premiums received during the preceding year in respect of other life insurance policies and  $8\frac{1}{2}$  per cent of other premiums received during that year in respect of all life insurance policies other than single premium life insurance policies

3 In

<sup>1</sup> The original Schedule was repealed by the Repealing Act, 1927 (12 of 1927), and this Schedule was added by s 84 of the Indian Income-tax Amendment) Act, 1939 (7 of 1939)

(Schedule—Rules for the computation of the Profits and Gains of Insurance Business)

3 In computing the surplus for the purpose of rule 2,—

- (a) one half of the amounts paid to or reserved for or expended on behalf of policy-holder shall be allowed as a deduction

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy holders one half of such amount, if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved,

- (b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets, shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus

Provided that if upon investigation it appears to the Income tax Officer after consultation with the Superintendent of Insurance that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just,

- (c) the whole amount of interest received in respect of any securities of the Central Government which have been issued or declared to be income tax free shall be deducted

4 Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub section (5) of section 18 for the tax paid in the preceding year, but credit shall be given for the annual average of the income tax paid by deduction at source from interest on securities or otherwise during such period

5 For

(Schedule—Rules for the computation of the Profits and Gains of Insurance Business)

5 For the purposes of these rules—

(i) 'preceding year' means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, immediately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938, the previous year as defined in section 2 of this Act,

(ii) 'gross external incomings' means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund) and includes also profits from reversions and on the sale or the granting of annuities but excludes profits on the realisation of securities

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (7) of section 10 would have been assessable under section 9 shall be computed upon the basis laid down in the last-named section, and that there shall be allowed from such gross incomings such deductions as are permissible under that section

(iii) 'management expenses' means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, securities and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules,

(iv) 'life insurance business' means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938,

(v) 'securities' includes stocks and shares

6 The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the Superintendent of Insurance after adjusting such balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business. Profits and losses on the realisation of investments, and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance

*(Schedule—Rules for the computation of the Profits and Gains of Insurance Business )*

7 The profits and gains of companies carrying on dividing society or assessment business shall be taken to be 15 per cent of the premium income of the previous year, or in the case of non resident companies 15 per cent of the British Indian premium income of the previous year

8 The profits and gains of the British Indian branches of an insurance company not resident in British India, in the absence of more reliable data, may be deemed to be the proportion of the total world income of the company corresponding to the proportion which its British Indian premium income bears to its total premium income For the purpose of this rule, the total world income of life insurance companies not resident in British India whose profits are periodically ascertained by actuarial valuation shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in British India

9 These rules apply to the assessment of the profits of any business of insurance carried on by a mutual insurance company ]

EXTRACT FROM THE INDIAN INCOME TAX (AMENDMENT)  
ACT, 1939

Whereas it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing, it is hereby enacted as follows —

1 (1) This Act may be called the Indian Income-tax (Amendment) Act, 1939

(2) This section and Part I shall come into force on (1) such date as the Central Government may, by notification in the official Gazette, appoint, and Part II shall come into force on such subsequent date, not later than two years from the date appointed for the coming into force of Part I as the Central Government may, in like manner, appoint

Provided that (2) sub-clauses (iii) and (iv) of clause (b) of section 11 shall not take effect earlier than the 1st day of April 1940

PART I

[The amendments promulgated in this part have all been embodied in the relevant sections of the Act as printed at pages 1—122 supra ]

PART II

[Please see sub-section (2) of section 1 above regarding the date on which this part will come into effect ]

85 After section 5 of the said Act the following section shall be inserted, namely —

“5A (1) The Central Government shall appoint an Appellate Tribunal consisting of not more than ten persons to exercise the functions conferred on the Appellate Tribunal by this Act

(2) The Appellate Tribunal shall consist of an equal number of judicial members and accountant members as hereinafter defined

(3) A judicial member shall be a person who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge, and an accountant member shall be a person who has, for a period of not less than six years, practised professionally as a Registered Accountant enrolled on the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932

Provided

Insertion of new section 5A in Act XI of 1922

The Appellate Tribunal

(1) By Notification No 7, dated 18th March 1939 the Central Government has appointed the 1st day of April 1939 as the date on which sub section 2 of section 1 of the above Act and Part I with the exception of sub clauses (iii) and (iv) of clause (b) of section 11 of the said Act shall come into force

(2) These relate to the change in the calculation of depreciation from the “original cost” basis to the “written down value” basis



Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section, if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal

(4) The Central Government shall appoint a judicial member of the Tribunal to be president thereof

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the president of the Tribunal

(6) A Bench shall consist of not less than two members of the Tribunal, and shall be constituted so as to contain an equal number of judicial members and accountant members, or so that the number of members of one class does not exceed the number of members of the other class by more than one

(7) If the members of a Bench differ in opinion on any point the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided they shall state the point or points on which they differ, and the case shall be referred by the president of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it

(8) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the place at which the Benches shall hold their sittings "

Amendment of  
section 28, Act  
XI of 1922.

86 In section 28 of the said Act,—

(a) in sub-section (1) and sub-section (2), for the words 'or the Commissioner' the words "or the Appellate Tribunal" and for the words "he may direct" the words "he or it may direct" shall be substituted,

(b) in sub-section (5), for the words "or a Commissioner who has made" the words "or the Appellate Tribunal on making" shall be substituted

Omission of  
section 32, Act  
XI of 1922

87 Section 32 of the said Act shall be omitted

Substitution of  
new section for  
section 33, Act  
XI of 1922

88 For section 33 of the said Act the following section shall be substituted, namely —

"33 (1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 28 or section 31 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order

(2) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under section 31, direct the Income-tax Officer to appeal to the Appellate Tribunal

Appeals against  
orders of  
Appellate  
Assistant Com-  
missioner

Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days from the date of the order

(3) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees

(4) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner

(5) Save as provided in section 66 orders passed by the Appellate Tribunal on appeal shall be final "

89 In section 35 of the said Act, sub-sections (2) and (3) shall be renumbered sub-sections (3) and (4), respectively, and the following shall be inserted as sub-section (2), namely —

Amendment of  
section 35, Act  
XI of 1922

"(2) The provisions of sub-section (1) apply also in like manner to the rectification of mistakes by the Appellate Tribunal "

90 In section 37 of the said Act, for the words "and Commissioner" the words "Commissioner and Appellate Tribunal" and for the words "or Commissioner" in clause (c) the words "Commissioner or Appellate Tribunal" shall be substituted

Amendment of  
section 37, Act  
XI of 1922

91 In sub-section (2) of section 48 of the said Act, for the words "The Appellate Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers or powers of revision" the words "The Appellate Assistant Commissioner or the Appellate Tribunal in the exercise of their appellate powers" shall be substituted

Amendment of  
section 48, Act  
XI of 1922

92 In section 66 of the said Act—

(a) for sub-sections (1), (2), (3), (3A), (4) and (5), the following sub-sections shall be substituted, namely —

Amendment of  
section 66, Act  
XI of 1922

"(1) Within sixty days of the date upon which he is served with notice of an order under sub-section (4) of section 33 the assessee or the Commissioner may, by application in the prescribed form, accompanied, where application is made by the assessee, by a fee of one hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court

Statement of  
case by Appell-  
ate Tribunal  
to High Court

Provided that, if, in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a

case

case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded

- (2) If on any application being made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly
- (3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within two months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1)
- (4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf
- (5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment",
- (b) in sub-section (6) the words "on the application of an assessee" shall be omitted,
- (c) in sub-section (7A), for the words, brackets, figures and letter "under sub-section (3) or sub-section (3A)", the words, brackets and figures "under sub-section (2) or sub-section (3)" shall be substituted

## ACT III OF 1926

## AN ACT TO DETERMINE THE LIABILITY OF CERTAIN GOVERNMENTS TO TAXATION IN BRITISH INDIA IN RESPECT OF TRADING OPERATIONS

Whereas it is expedient to determine the liability to taxation for the time being in force in British India of the Government of any part of His Majesty's dominions, exclusive of British India, in respect of any trade or business carried on by or on behalf of such Government, it is hereby enacted as follows —

1 (1) This Act may be called the Government Trading Taxation Short title and Act, 1926 commencement

(2) It shall come into force on such date<sup>1</sup> as the Governor-General in Council may, by notification in the Gazette of India appoint

2 (1) Where a trade or business of any kind is carried on by or Liability of certain on behalf of the Government of any part of Governments to taxation in respect of trade His Majesty's Dominions, exclusive of British India, that Government shall, in respect of ing operations, the trade or business and of all operations connected therewith, all property occupied in British India and all goods owned in British India for the purposes thereof, and all income arising in connection therewith, be liable—

(a) to taxation under the Indian Income-tax Act, 1922, in the same manner and to the same extent as in the like case a company would be liable,

(b) to all other taxation for the time being in force in British India in the same manner as in the like case any other person would be liable

(2) For the purposes of the levy and collection of income-tax under the Indian Income-tax Act, 1922, in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions

## EXTRACTS FROM THE INDIAN FINANCE ACT, 1939

1 (1) This Act may be called the Indian Finance Act, 1939

(2) It extends to the whole of British India

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x

\*

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..

6 (1) Subject

\* The Act came into force with effect from the 1st April, 1926

6 (1) Subject to the provisions of sub-section (2)—

(a) income-tax for the year beginning on the 1st day of April, 1939, shall be charged at the rates specified in Part I of Schedule II and

(b) rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of Schedule II

(2) In cases to which section 17 of the Indian Income-tax Act, 1922 applies, the tax chargeable shall be determined in accordance with the provisions of that section with reference to the rates specified in Schedule II

(3) For the purpose of this section and of Schedule II, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), where more than half of the total income of any individual or Hindu undivided family consists of income from salaries, interest on securities or dividends in respect of which the individual or Hindu undivided family is deemed, under the provisions of section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, or consists of income falling under more than one of those heads—

(a) income-tax for the year beginning on the 1st day of April, 1939, shall be charged in respect of such total incomes at the rates of income-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, and

(b) in cases in which super-tax has been deducted under the provisions of section 18 of the said Act or would have been so deductible had the Indian Income-tax (Amendment) Act, 1939, come into force on the 1st day of April, 1938, the rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates of super-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families as the case may be

(5) In respect of income to which sub-section (4) applies, the provisions of section 17 of the Indian Income-tax Act, 1922, shall apply to the assessment to be made for the year beginning on the 1st day of April, 1939, as though the Indian Income-tax (Amendment) Act, 1939, had not been passed

## SCHEDULE II.

**SCHEDULE II.**

[ See section 6 ]

**PART I****RATES OF INCOME-TAX**

A In the case of every individual, Hindu undivided family, un-registered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate
1 On the first Rs 1,500 of total income	<i>Nil</i>
2 On the next Rs 3,500 of total income	Nine pies in the rupee
3 On the next Rs 5,000 of total income	One anna and three pies in the rupee
4 On the next Rs 5,000 of total income	Two annas in the rupee
5 On the balance of total income	Two annas and six pies in the rupee

Provided that—

(i) no income-tax shall be payable on a total income which does not exceed Rs 2,000,

(ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs 2,000

B In the case of every company and local authority, and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Two annas and six pies in the rupee

**PART II****RATES OF SUPER-TAX**

A In the case of every individual, Hindu undivided family, un-registered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate
1 On the first of Rs 25,000 of total income	<i>Nil</i>
2 On the next Rs 10,000 of total income	One anna in the rupee
3 On the next Rs 20,000 of total income	Two annas in the rupee
4 On the next Rs 70,000 of total income	Three annas in the rupee
5 On the next Rs 75,000 of total income	Four annas in the rupee

# Indian Income-tax

[ACT XI]

	Rate
6 On the next Rs 1,50,000 of total income	Five annas in the rupee
7 On the next Rs 1,50,000 of total income	Six annas in the rupee
8 On the balance of total income	Seven annas in the rupee

B In the case of every company and local authority—

	Rate
On the whole of total income	One anna in the rupee

*Statement Showing the Rates of Income-tax under "STEP" System for the years from 1922-23 to 1938-39*

Grades of income	Rate in pies in the rupee			Surcharge
	1922-23 to 1929 30	1930 31	1931-32 to 1938 39	
2,000 to 4,999	5	5	6	No surcharge before 1931 32
5,000 to 9,999	6	6	9	1931-32 1/8th
10,000 to 14,999	9	9	12	1932 33 to 1934 35 } 1/4th
15,000 to 19,999	9	10	16	
20,000 to 29,999	12	13	19	1935 36 1/6th
30,000 to 39,999	15	16	23	1936-37 to 1938 39 } 1/12th
40,000 to 99,999	18	19	25	
1,00,000 and above	18	19	26	
Company and Registered firm whatever its total income	18	19	26	

## Rates under "LOWER INCOMES"

Grades of income	Rate in pies in the rupee			
	1931-32	1932-33 and 1933 34	1934 35	1935-36
1,000 to 1,499	2	4	2	1 1/3
1,500 to 1,999	2	4	4	2 2/3

NOTE.—Special provision was made in each year to the effect that the rate of income tax and surcharge applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the previous year was the rate fixed for the year previous to the year in question, and the same rate applied to refunds under section 48

## Statement showing the Rates of Super-tax from 1922-23 to 1938-39.

	Rate in pies per rupee		
	1922-23 to 1929-30	1930-31	1931-32 to 1938-39
I COMPANY—			
First Rs 50,000	Nil	Nil	Nil
Every rupee of the remainder	12	12	12
II HINDU UNDIVIDED FAMILY—			
First Rs 75,000	Nil	Nil	Nil
Every rupee of next 25,000	12	13	15
Ditto 50,000	18	19	21
Ditto 50,000	24	25	27
Ditto 50,000	30	31	33
Ditto 50,000	36	37	39
Ditto 50,000	42	43	45
Ditto 50,000	48	49	51
Ditto 50,000	54	55	57
Ditto 50,000	60	61	63
Ditto 50,000	66	67	69
Every rupee of the remainder	72	73	75
III INDIVIDUAL, UNREGISTERED FIRM AND ASSOCIATION OF INDIVIDUALS—			
First Rs 30,000	Nil	Nil	Nil
Every rupee of next 20,000	Nil	Nil	9
Ditto 50,000	12	13	15
Ditto 50,000	18	19	21
Ditto 50,000	24	25	27
Ditto 50,000	30	31	33
Ditto 50,000	36	37	39
Ditto 50,000	42	43	45
Ditto 50,000	48	49	51
Ditto 50,000	54	55	57
Ditto 50,000	60	61	63
Ditto 50,000	66	67	69
Every rupee of the remainder	72	73	75

Surcharge The surcharge was the same as that for income-tax shown at page 130





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## **PART II.**

**“ Statutory Orders, Exemptions and Rules ”.**

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THE INDIA AND BURMA (INCOME-TAX RELIEF) ORDER  
1936

## PART I

## INTRODUCTORY AND GENERAL

1. This Order may be cited as "The India and Burma (Income-Tax Relief) Order, 1936"

2 The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament

3 Any reference in this Order to, or to any provisions of, the Indian Income-tax Act, 1922, shall be construed as a reference to that Act or those provisions as for the time being in force in India, as for the time being in force in Burma, or as for the time being in force both in India and in Burma, as the context and the circumstances may require, or, if that Act or those provisions have been repealed and re-enacted, either with or without modifications, to the re-enacting Act or provisions as in force as aforesaid

4. In this Order, "income-tax", or "tax", in relation to India or Burma, means income-tax payable in accordance with the Indian Income-tax Act, 1922, and includes super-tax so payable, and other expressions have, except where the context otherwise requires, the same meanings as in the Indian Income-tax Act, 1922

5 References in this Order to the rate of tax shall—

(a) in relation to India or Burma, be construed as references to a rate determined by dividing the amount of income-tax paid in India or Burma, as the case may be, for the year in question (before deduction of any relief granted under section forty-nine of the Indian Income-tax Act, 1922, or under this Order) by the amount of the income on which tax was charged,

(b) in relation to the United Kingdom, mean the appropriate rate of United Kingdom income-tax for the year in question as defined for the purposes of section twenty-seven of the Finance Act, 1920

6 Any reference in this Order to the lower of two rates shall, where the rates are equal, be construed as a reference to either of those rates, and any reference in this Order to the two lowest of three rates shall, where the three rates are equal, be construed as a reference to any two of them, and where two of the three rates are equal and the third is less, be construed as a reference to the lowest rate and one of the equal rates

7 This Order shall have effect with respect to the financial year beginning on the date of the commencement of Part III of the India Act and every subsequent financial year

Provided that if, at any time after the expiration of three years from the commencement of Part III of the India Act, the Governor-General of India gives to the Governor of Burma, or the

Governor of Burma gives to the Governor-General of India, notice of his desire that this Order shall cease to operate, the Order shall not have effect with respect to any financial year subsequent to the financial year next following that during which the notice is given

## PART II

### RELIEF IN INDIA

1 If any person who has paid Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for that year Burman income-tax, or Burman income-tax and United Kingdom income-tax, in respect of that part of his income, he shall be entitled to a refund of Indian tax calculated on that part of his income at the appropriate rate of relief

In this paragraph "appropriate rate of relief" means—

- (a) in relation to income taxed in India and Burma and not in the United Kingdom, a rate bearing to the Indian rate of tax or the Burman rate of tax, whichever is the lower, the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the Burman rate of tax
- (b) in relation to income taxed in India, Burma and the United Kingdom, a rate bearing to the difference between the total rate at which he was entitled to, and obtained, relief in the United Kingdom under section twenty-seven of the Finance Act, 1920, in respect of that income, and the sum of the two lowest of the three rates of tax the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the Burman rate of tax

2 No refund of tax shall be payable in India under section forty-nine of the Indian Income-tax Act, 1922, in respect of any income which is taxed under that Act in Burma, and if any such refund is made it shall be repaid

3. Any sums repayable under the last foregoing paragraph and any sums overpaid by way of refund under this Part of this Order shall be recoverable as if they were arrears of income-tax

4 No income which an assessee proves to the satisfaction of the Income-tax Officer to have been charged in his hands to income-tax under the Indian Income-tax Act, 1922, for any year preceding the commencement of Part III of the India Act shall be included in India in the assessment of his income for any subsequent year

5 In the provisions of the Indian Income-tax Act, 1922 (other than the provisions of section forty-nine thereof)—

- (a) any reference to that Act or to section forty-nine thereof shall be construed as including a reference to this Part of this Order

- (b) any reference to section twenty-seven of the Finance Act, 1920, shall be construed as including a reference to Part III of this Order,
- (c) any reference to the United Kingdom in relation to relief under the said section twenty-seven, or in relation to refunds under the said section forty-nine, shall be construed as including a reference to Burma in relation to refunds under Part III of this Order or this Part of this Order, as the case may require

### PART III

#### RELIEF IN BURMA

1 If any person who has paid Burman income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for that year Indian income-tax, or Indian income-tax and United Kingdom income-tax, in respect of that part of his income, he shall be entitled to a refund of Burman tax calculated on that part of his income at the appropriate rate of relief

In this paragraph "appropriate rate of relief" means—

- (a) in relation to income taxed in Burma and India and not in the United Kingdom, a rate bearing to the Burman rate of tax or the Indian rate of tax, whichever is the lower, the same proportion as the Burman rate of tax bears to the sum of the Burman rate of tax and the Indian rate of tax,
- (b) in relation to income taxed in Burma, India and the United Kingdom, a rate bearing to the difference between the total rate at which he was entitled to and obtained, relief in the United Kingdom under section twenty-seven of the Finance Act, 1920, in respect of that income, and the sum of the two lowest of the three rates of tax the same proportion as the Burman rate of tax bears to the sum of the Burman rate of tax and the Indian rate of tax

2 No refund of tax shall be payable in Burma under section forty-nine of the Indian Income-tax Act 1922, in respect of any income which is taxed under that Act in India, and if any such refund is made it shall be repaid

3 Any sums repayable under the last foregoing paragraph and any sums overpaid by way of refund under this Part of this Order shall be recoverable as if they were arrears of income-tax

4 No income which an assessee proves to the satisfaction of the Income-tax Officer to have been charged in his hands to income-tax under the Indian Income-tax Act, 1922, for any year preceding the commencement of the Burma Act, shall be included in Burma in the assessment of his income for any subsequent year



5 In the provisions of the Indian Income-tax Act, 1922 (other than the provisions of section forty-nine thereof)—

- (a) any reference to that Act or to section forty-nine thereof shall be construed as including a reference to this Part of this Order,
- (b) any reference to section twenty-seven of the Finance Act, 1920, shall be construed as including a reference to Part II of this Order,
- (c) any reference to the United Kingdom, in relation to relief under the said section twenty-seven or in relation to a refund under the said section forty-nine, shall be construed as including a reference to India in relation to refunds under Part II of this Order or this Part of this Order, as the case may require

[Note—The forms prescribed under this order are in rules 40 A and 40-B p 234 235 *infra*]

## NOTIFICATIONS REGARDING DOUBLE INCOME-TAX RELIEF

### INDIAN STATES

[Notification No 25, dated the 1st July 1926 (as subsequently amended) ]

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following modifications in respect of income-tax, in favour of income on which income-tax has been charged both in British India and in one of the Indian States referred to in the schedule to this notification (heremafter called the said schedule), namely —

1 In this notification—

- (a) the expression “State income-tax” means income-tax and super-tax charged in accordance with the provisions of the law relating to income-tax for the time being in force in the State concerned,
- (b) the expression “State rate of tax” means the amount of State income-tax divided by the amount of the larger of the two incomes on which income-tax and super-tax respectively have been charged by the State and
- (c) the expressions “Indian income-tax” and “Indian rate of tax” have the same meanings as in clauses (a) and (b), respectively, of section 49 (2) of the Act

2 If any person who has paid by deduction under section 18 or otherwise Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has at any time paid State income-tax in respect of the same part of his income, he shall be entitled to the refund of a sum calculated on that part of his income at a rate equal to half the State rate of tax, provided that the rate at which the refund shall be given shall not exceed one-half of the Indian rate of tax

3 Every application for refund of income-tax under this notification shall be made to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax or if he is not chargeable directly to income-tax, to the Income-tax Officer for the district in which the applicant ordinarily resides or if he is not resident in British India—

(i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident, or

(ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was deducted

Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in the following form —

*Application for relief from double income-tax under Notification No 25, dated the 1st July 1926*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid (name of State) State income-tax/income-tax and super-tax amounting to Rs \_\_\_\_\_ for the year ending 19 \_\_\_\_\_ on an \*income of Rs \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid on the same income\*/part of the same income amounting to Rs \_\_\_\_\_, I now pray for relief at the rate of \_\_\_\_\_ amounting to Rs \_\_\_\_\_ under Notification No 25, dated the 1st July 1926, to which I am entitled. My income from all sources to which this Notification applies during the "previous year" ending on the \_\_\_\_\_ 19 \_\_\_\_\_, amounted to Rs. \_\_\_\_\_ only—see Return of income attached/already submitted

Signature

I hereby declare that what is stated herein is correct

Signature

Dated

19

4 No claim to any refund of Indian income-tax under this Notification shall be allowed unless it is made within one year from the last day of the year in which such tax or the State income-tax was recovered, whichever is later

5 Any person objecting to a refusal of an Income-tax Officer to allow a claim to a refund under this Notification or to the amount of refund allowed, may appeal to the Appellate Assistant Commissioner

\* Where the income on which income tax has been charged differs from that on which super tax has been charged both amounts must be specified

6 The appeal shall be presented within thirty days of receipt of the intimation of the refusal to grant a refund or of the amount of refund allowed

7 The appeal shall be in the following form —

*Form of appeal against an order refusing to grant a refund under the Notification of the Government of India in the Finance Department (Central Revenues) No 25-Income-tax, dated the 1st July 1926.*

To

The Appellate Assistant Commissioner of

The day of 19

The petition of of

post-office district sheweth as follows.—

Your petitioner applied to the Income-tax Officer for a refund under the Notification of the Government of India in the Finance Department (Central Revenues), No 25-Income-tax, dated the 1st July 1926 of Rs The Income-tax Officer has by his order, dated the of which a copy is attached refused to grant a refund Intimation of this order was granted a refund of only Rs received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund applied for may be granted

Signed

\_\_\_\_\_  
GROUNDS OF APPEAL

*Form of Verification*

I, the petitioner named above in the above petition do declare that what is stated therein is true to the best of my information and belief

Signed

SCHEDULE

*Gujarat States Agency*

- 1 Baroda
- 2 Chhota Udepur
- 3 Sachin

*Kashmir Agency*

- 1 Jammu and Kashmir.

*Madras States Agency*

- 1 Travancore
- 2 Cochin

*Central India Agency*

- 1 Dhar
- 2 Makhai
- 3 Bhopal

*Punjab States Agency*

- 1 Patiala
- 2 Bahawalpur
- 3 Jind
- 4 Kapurthala
- 5 Loharu
- 6 Maler Kotla
- 7 Mandi
- 8 Faizkot

*Punjab Hill States Agency*

- 1 Baghat

*Deccan States Agency*

- 1 Akalkot
- 2 Phaltan
- 3 Ramdurg
- 4 Kolhapur
- 5 Sangli
- 6 Jamkhandi

*Gwalior Agency*

- 1 Benares

Eastern States Agency

- 1 Bastar
- 2 Kanker
- 3 Raigarh
- 4 Jashpur
- 5 Sarangah.
- 6 Kawardha
- 7 Khanagarh
- 8 Korea
- 9 Nandgaon
- 10 Chhuikhadan
- 11 Mayurbhanj
- 12 Patna
- 13 Sonapur
- 14 Kalahandi
- 15 Ranakho
- 16 Baudh
- 17 Serikela
- 18 Talcher
- 19 Gangpur
- 20 Kharsawan

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CEYLON

(Notification No 14, dated the 2nd April 1932 )

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922) the Central Government is pleased to make the following modifications in respect of income-tax in favour of income on which income-tax has been charged both in British India and in Ceylon, namely —

(1) In this notification—

(a) the expression “Ceylon tax” has the meaning assigned to it in section 45 (4) (b) of the Ceylon Income-tax Ordinance, 1932 (2 of 1932),

(b) the expression “Indian income-tax” has the meaning assigned to it in clause (a) of section 49 (2) of the Indian Income-tax Act, 1922 (XI of 1922)

(2) If any person, who has paid by deduction under section 18 or otherwise Indian income-tax for any year on any part of his income, proves to the satisfaction of the Income-tax Officer that he has paid Ceylon tax for the corresponding year in Ceylon on the same part of his income he shall be entitled to the refund of a sum

equal to half the Ceylon tax calculated on that part of his income on which relief is admissible under the Ceylon Income-tax Law, or to half the Indian income-tax on the same part of his income, whichever is less. Provided that where any person is entitled to a further relief in British India on that part of his income on which relief is admissible under the Ceylon Income-tax Law on account of its having been also taxed in some other country besides Ceylon, the relief in respect of the Ceylon tax shall not exceed the difference between half the Indian income-tax and such further relief as may have been granted in British India owing to that part of his income having been taxed in some other country besides Ceylon.

(3) Every application for refund of income-tax under this notification shall be made to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax or if he is not chargeable directly to income-tax to the Income-tax Officer of the district in which the applicant ordinarily resides or if he is not resident in British India—

- (i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident, or
- (ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was deducted

Such application may be presented by the applicant in person or by a duly authorized agent or may be sent by post, and shall be in the following form —

*Application for relief from double income-tax under Notification No 14, dated 2nd April 1932*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid Ceylon tax amounting to Rs \_\_\_\_\_ for the year ending 19\_\_\_\_, on an income of Rs \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid on the same income/part of the same income amounting to Rs \_\_\_\_\_. I now pray for relief of a sum of Rs \_\_\_\_\_ under Notification No 14, dated 2nd April 1932 to which I am entitled. My income from all sources to which this Notification applies during the "previous year" ending on the \_\_\_\_\_ 19\_\_\_\_, amounted to Rs \_\_\_\_\_ only—see Return of income attached/already submitted

Signature

I hereby declare that what is stated herein is correct

Signature

Dated \_\_\_\_\_ 19\_\_\_\_

(4) No claim to any refund of income-tax under this notification shall be allowed unless it is made within one year from the last

\* Where the income on which income-tax has been charged differs from that on which super-tax has been charged both amounts must be specified

*Eastern States Agency*

- 1 Bastar
- 2 Kanher
- 3 Raigarh
- 4 Jashpur
- 5 Sarangarh.
- 6 Kawardha
- 7 Khanagarh
- 8 Korea
- 9 Nandgaon
- 10 Chhukhadan
- 11 Mayurbhanj
- 12 Patna
- 13 Sonapur
- 14 Kalahandi
- 15 Ranakho
- 16 Baudh
- 17 Serakela
- 18 Talcher
- 19 Gangpur
- 20 Kharsawan

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CEYLON

*(Notification No 14, dated the 2nd April 1932 )*

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922) the Central Government is pleased to make the following modifications in respect of income-tax in favour of income on which income-tax has been charged both in British India and in Ceylon, namely —

(1) In this notification—

(a) the expression “Ceylon tax” has the meaning assigned to it in section 45 (4) (b) of the Ceylon Income-tax Ordinance, 1932 (2 of 1932),

(b) the expression “Indian income-tax” has the meaning assigned to it in clause (a) of section 49 (2) of the Indian Income-tax Act, 1922 (XI of 1922)

(2) If any person, who has paid by deduction under section 18 or otherwise Indian income-tax for any year on any part of his income, proves to the satisfaction of the Income-tax Officer that he has paid Ceylon tax for the corresponding year in Ceylon on the same part of his income he shall be entitled to the refund of a sum

equal to half the Ceylon tax calculated on that part of his income on which relief is admissible under the Ceylon Income-tax Law, or to half the Indian income-tax on the same part of his income, whichever is less. Provided that where any person is entitled to a further relief in British India on that part of his income on which relief is admissible under the Ceylon Income-tax Law on account of its having been also taxed in some other country besides Ceylon, the relief in respect of the Ceylon tax shall not exceed the difference between half the Indian income-tax and such further relief as may have been granted in British India owing to that part of his income having been taxed in some other country besides Ceylon.

(3) Every application for refund of income-tax under this notification shall be made to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax or if he is not chargeable directly to income-tax to the Income-tax Officer of the district in which the applicant ordinarily resides or if he is not resident in British India—

- (i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident, or
- (ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was deducted

Such application may be presented by the applicant in person or by a duly authorized agent or may be sent by post, and shall be in the following form —

*Application for relief from double income-tax under Notification No 14, dated 2nd April 1932*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid Ceylon tax amounting to Rs \_\_\_\_\_ for the year ending 19\_\_\_\_, on an income of Rs \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid on the same income/part of the same income amounting to Rs \_\_\_\_\_. I now pray for relief of a sum of Rs \_\_\_\_\_ under Notification No 14, dated 2nd April 1932 to which I am entitled. My income from all sources to which this Notification applies during the "previous year" ending on the \_\_\_\_\_ 19\_\_\_\_, amounted to Rs \_\_\_\_\_ only—see Return of income attached/already submitted

Signature

I hereby declare that what is stated herein is correct

Signature

Dated

19\_\_\_\_

(4) No claim to any refund of income-tax under this notification shall be allowed unless it is made within one year from the last

\* Where the income on which income tax has been charged differs from that on which super-tax has been charged both amounts must be specified



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## ADEN

(Notification No 21-Income-tax, dated the 5th June 1937)

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following modifications in respect of income-tax in favour of income on which tax has been charged both in British India and Aden, namely —

(1) In this Notification —

- (a) The expression "Aden Income-tax" means income-tax and super-tax charged for any year in accordance with the provisions of the Aden Income-tax Ordinance, 1937
- (b) The expression "Aden rate of tax" means the amount of Aden income-tax divided by the amount of the income on which it was charged
- (c) The expression "Indian income-tax" means income tax and super-tax chargeable in accordance with provisions of any law in force in British India
- (d) The expression "Indian rate of tax" means the rate determined by dividing the amount of income-tax paid in British India for the year in question by the amount of income on which tax was charged
- (e) The reference to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of those two rates

(2) If any person who has paid by deduction under section 18 or otherwise Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for that year Aden Income-tax in respect of that part of his income he shall be entitled to the refund of Indian Income-tax calculated on that part of his income at a rate bearing to the Indian rate of tax or the Aden rate of tax whichever is the lower, the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the Aden rate of tax

(3) Every application for refund of income-tax under this notification shall be made to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax or if he is not chargeable directly to income-tax to the Income-tax Officer of the district in which the applicant ordinarily resides, or if he is not resident in British India—

- (i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident or
- (ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was paid

Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in the following form —

*Application for relief from double income-tax under Notification No 21-Income-tax, dated the 5th June 1937*

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby state that I have paid Aden income-tax/income-tax and super-tax amounting to Rs \_\_\_\_\_ for the year ending 19 \_\_\_\_\_ on an income of Rs \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid on the same income /part of the same income amounting to Rs \_\_\_\_\_. I now pray for relief at the rate of \_\_\_\_\_ amounting to Rs \_\_\_\_\_ under Notification No 21-Income-tax, dated the 5th June 1937 to which I am entitled. My income from all sources to which this Notification applies during the "previous year" ending on the \_\_\_\_\_ 19 \_\_\_\_\_, amounted to Rs \_\_\_\_\_ only—see return of income attached/already submitted

Signature

I hereby declare that what is stated herein is correct

Dated \_\_\_\_\_ 19 \_\_\_\_\_

Signature

(4) No claim to any refund of Indian income-tax under this Notification shall be allowed unless it is made within one year from the last day of the year in which such tax or the Aden income-tax was recovered, whichever is later

(5) Any person objecting to a refusal of an Income-tax Officer to allow a claim to a refund under this Notification or to the amount of refund allowed, may appeal to the Appellate Assistant Commissioner

(6) The appeal shall be presented within thirty days of receipt of the intimation of the refusal to grant a refund or of the amount of refund allowed

The appeal shall be in the following form —

*Form of appeal against an order refusing to grant a refund under the Notification of the Government of India in the Finance Department (Central Revenues), No 21-Income-tax, dated the 5th June 1937*

To

The Appellate Assistant Commissioner of

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

The petition of \_\_\_\_\_ of \_\_\_\_\_ post-office

district \_\_\_\_\_ sheweth as follows —

Your petitioner applied to the Income-tax Officer for a refund under the Notification of the Government of India in the Finance

\* Where the income on which income tax has been charged differs from that on which super tax has been charged both amounts must be specified.

Department (Central Revenues), No 21-Income-tax, dated the 5th June 1937 of Rs \_\_\_\_\_ The Income-tax Officer has by his order dated the \_\_\_\_\_ of which a copy is attached refused to grant a refund \_\_\_\_\_ Intimation of this order was received granted a refund of only Rs \_\_\_\_\_ by your petitioner on \_\_\_\_\_

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund applied for may be granted

Signed

#### \_\_\_\_\_ GROUNDS OF APPEAL

##### *Form of Verification*

I, \_\_\_\_\_ the petitioner named above in the above petition do declare that what is stated therein is true to the best of my information and belief

Signed

### RULES REGARDING RECOGNISED PROVIDENT FUNDS

#### I

(Notification No 9, dated the 15th March, 1930)

In exercise of the powers conferred by Chapter IX-A of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 58-L read with sub-section (4) of section 59 of the said Act —

1 These rules may be called the Indian Income-tax (Provident Funds Relief) Rules

2 In these rules, "section" means a section of the Indian Income-tax Act, 1922 (XI of 1922)

3 The contributions made by employees after the date of recognition of a provident fund and the interest on the accumulated balances of such contributions shall be wholly invested in securities of the nature specified in clause (a), (b), (c), (d) or (e) of section 20 of the Indian Trusts Act, 1882, and payable both in respect of capital and of interest in British India

4 (1) Withdrawals by employees shall not be allowed by the trustees except on special grounds in the following circumstances or circumstances of a similar nature—

- (a) to pay expenses incurred in connection with the illness of a subscriber or a member of his family,
- (b) to pay for the passage over the sea of a subscriber or any member of his family,
- (c) to pay expenses in connection with marriages, funerals or ceremonies which by the religion of the subscriber it is incumbent upon him to perform and in connection with which it is obligatory that expenditure should be incurred,

- (d) to meet the expenditure on building or purchasing a house or a site for a house provided that such house or site is assigned to the trustees of the fund,
- (e) to pay premia on policies of insurance on the life of the subscriber or of his wife provided that the policy is assigned to the trustees of the fund and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the Income-tax Officer

(2) For the purposes of sub-rule (1) "Family" means any of the following persons who reside with and are wholly dependent on the employee, namely —the employee's wife, legitimate children, step children, parents, sisters and minor brothers

(3) No such withdrawal shall exceed (1) the pay of the employee for three months, or, in the case of a withdrawal for the purpose specified in clause (d) of sub-rule (1) six months at the time when the advance is granted, or (2) the total of the accumulation of exempted contributions and exempted interest contained in the balance to the credit of the employee whichever is less

(4) A second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid

5 (1) Where a withdrawal is allowed for a purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 4 the amount withdrawn need not be repaid

(2) Where a withdrawal is allowed for any other purpose the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments and shall bear interest in accordance with rule 6 and no further withdrawal shall be permitted until repayment has been effected in full

6 In respect of withdrawals which are repaid in not more than 12 monthly instalments, an additional instalment of 4 per cent of the amount withdrawn shall be paid on account of interest, and in respect of withdrawals which are repaid in more than 12 monthly instalments two such instalments of 4 per cent of the amount withdrawn shall be paid on account of interest

Provided, however, that at the discretion of the Trustees of the Fund, interest may be recovered on the amount withdrawn or the balance thereof outstanding from time to time at 1 per cent above the rate which is payable for the time being on the balance in the fund at the credit of the member

7 The employer shall deduct such instalments from the employee's salary, and pay them to the Trustees. The deductions shall commence from the second monthly payment made after the withdrawal or in the case of an employee on leave without pay from the second monthly payment made after his return to duty

8 In case of default of repayment of instalments under rules 6 and 7, the Commissioner of Income-tax may at his discretion order that the amount of the withdrawal or the amount outstanding shall

be added to the total income of the employee for the year in which the default occurs and the Income-tax Officer shall assess the employee accordingly

9 Notwithstanding anything contained in rules 4 to 8, it shall be open to the trustees of a recognised provident fund to permit the withdrawal of ninety per cent of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund

9-A Where the accounts of a recognised provident fund are kept outside British India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in British India

Provided that the Income-tax Officer may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied

10 (1) An application for recognition shall be made by the employer maintaining the fund for which recognition is sought and shall be accompanied by the following documents —

- (a) the trust deed if any in original with one copy thereof, the latter to be retained by the Commissioner, and
- (b) the rules of the fund

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the Commissioner of Income-tax to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in rule 7 of the Indian Companies Rules, 1914, in which case an additional copy shall be furnished for retention by the Commissioner

(2) The application shall be submitted through the Income-tax Officer of the area in which the accounts of the funds are kept, or, if the accounts are kept outside India, through the Income-tax Officer of the area in which the local headquarters of the employer are situate

(3) The application shall contain the following information —

- (a) Name of employer and address, his business, profession, etc., also his principal place of business
- (b) Number of employees subscribing to the fund—
  - (i) in British India,
  - (ii) in Indian States,
  - (iii) outside India
- (c) Place where the accounts of the fund are or will be maintained
- (d) If the fund is already in existence—
  - (i) a copy of the last balance sheet of the fund, where such is maintained,
  - (ii) details of investments of the fund

(4) A verification in the following form shall be annexed to the application --

*Form of verification*

We/I, the trustee(s) of the above-named fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

11 Where an employee of a company owns shares in the company with a voting power exceeding ten per cent of the whole of such power the sum of the exempted contributions of the employee and employer to the recognised provident fund maintained by the company shall not exceed Rs 250 in any month

12 If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the Income-tax Officer shall, on the fact of the assignment or charge coming to his knowledge, give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the Income-tax Officer and shall be assessed accordingly

13 If the Commissioner withdraws recognition from a recognised provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall be paid to him free of income-tax and super-tax at the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to income-tax and super-tax as if the fund had never been recognised

14 Before withdrawing recognition, the Commissioner of Income-tax shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn

**II**

*(Notification No 10, dated the 15th March, 1930)*

In pursuance of sub-section (2) of section 58-F of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to fix six per cent as the rate referred to in the said sub-section

**III**

*(Notification No 12, dated the 15th March, 1930)*

In exercise of the powers conferred by Chapter IX-A and by section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 58-L read with sub-section (4) of section 59 of the said Act --

1 These rules may be called the Indian Income-tax (Provident Funds Relief) (Central Board of Revenue) Rules

2 In these rules "section" means a section of the Indian Income-tax Act, 1922 (XI of 1922)

3 An order according recognition to a provident fund shall take effect—

(a) in cases where the application for recognition has been received by the Commissioner of Income-tax before the 31st May 1930—on 31st May 1930,

(b) in other cases—on the last day of the month in which the order is made, or, at the request of the employer, on the last day of any later month in the same financial year

4 An appeal under *sub-section (4)* of section 58-B shall be in the following form and shall be verified in the manner indicated therein —

*Form of appeal against refusal to recognise or withdrawal of recognition from a Provident Fund*

To

The Central Board of Revenue

The petitioner of  
profession or vocation

employee(s) carrying on business,  
at

Your petitioner(s) *applied to (obtained sanction from)* the Commissioner of Income-tax under section 58-B of the Indian Income-tax Act, 1922, for the recognition of the provident fund maintained by him (them) for the benefit of his (their) employees. The Commissioner of Income-tax has *refused recognition (withdrawn recognition)* for the reasons stated in his order dated \_\_\_\_\_ of which a copy is attached

For the reasons set out below your petitioner(s) submit(s) that the fund should *be (continue to be)* recognised, and pray(s) that the Central Board of Revenue may be pleased to accord recognition  
continue the recognition

GROUND(S) OF APPEAL

We/I \_\_\_\_\_, the petitioner(s) named in the above petition do declare that what is stated therein is true to the best of our/my information and belief

Signature

Address of the appellant

Date

N B —Unnecessary words or letters should be scored out

5 The accounts of a recognised provident fund shall be prepared at intervals of not more than twelve months



6. An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in the following form —

Name _____		Date of joining Fund _____				Recovery by employer _____						
Year and month	Salary	Contributions				Total interest on column 6 * 7	Exempt		Not exempt		Remarks	13
		3 Contribution by employee	4 Regular Contributions by employer	5 Employer's contributions of a future contingent nature	6 Total of columns 3, 4 and 5		8 Contributions not exceeding 1-6th year or Rs 6,000 less 9 Interest on sums in column 6 at % p a but not exceeding 1-3rd of the salary for the year	10 Contributions column 8 minus column 9	11 Interest column 7 minus column 8	12 Additions to total income (columns 4, 5 and 7)		
1	2	3	4	5	6	7	8	9	10	11	12	13
Balance brought forward												
April May March												
Total												
Adjustment on account of temporary withdrawals account (columns 8 and 9 only)												
Adjustment on account of non repayable withdrawals account (columns 10 and 11)												
Total carried over												

NON REPAYABLE WITHDRAWALS ACCOUNT

Amount		Advance	Repayment	Interest.
April May June July		Balance brought forward		
March		March		
Total		Balance carried over		

\* If desired column 7 may be divided into sub columns to show separately the interest on column 3 and columns 4 and 5 respectively

7. An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a recognised provident fund whose income under the head "Salaries" is Rs 1,500 or over per annum, shall be furnished by the trustees to the Income-tax Officer of the area in which the employer conducts his business, profession or vocations, or to such other Income-tax Officer as the Commissioner may, in each case, direct, not later than the fifteenth day of June in each year. It shall be in the form prescribed in rule 6, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a recognised provident fund who were allowed withdrawals under rule 4 of the Indian Income-tax (Provident Funds Relief) Rules or who come within the purview of rule 11 of these Rules.

8. The account to be made under the provisions of sub-section (1) of section 58-J shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the provident fund, (ii) the total contributions, (iii) the total interest which has accrued thereon, and (iv) so far as may be, the percentage of the employee's salary in accordance with which contributions have been made by the employer and employee.

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EXEMPTIONS NOTIFIED UNDER SECTION 60 OF THE  
INDIAN INCOME-TAX ACT, 1922, BY THE CENTRAL  
GOVERNMENT

I

INCOMES EXCLUDED FROM TOTAL INCOME ALTOGETHER

[Finance Department Notification No 878-F (Income-tax), dated  
21st March 1922 as amended or added to from time to time]

“The following classes of income shall be exempt from the tax payable under the said Act and they shall not be taken into account in determining the total income or salary of an assessee for the purposes of the said Act except for the purposes of sub-section (f) of section 48 —

(1) The official allowance which an agent of a Prince or State in India, who has been duly accredited to represent the Prince or State for political purposes in any place within the limits of British India, receives as such agent in British India from the Prince or State, and the official salaries and fees which a Consul-General, Consul, Vice-Consul or Consular Agent of a foreign State, whether ‘de carrière’ or not, and whether a British or a foreign subject or a representative or consular employee of a foreign State, not being a British subject, receives in India from such Foreign State in his capacity of Consul-General, Consul, Vice-Consul or Consular Agent, representative or consular employee

(2) Sums paid in pursuance of Article 3 of the agreement, dated the 17th August 1825 between the British Government and the King of Oudh

(3) Income derived from the *Bua* tax defined in clause (c) of section 2 of the Teri Dues Regulation, 1902

(4) The salary and allowances paid by a State in India during the period of deputation to any person deputed by the State for training in British India

(5) Scholarships granted to meet the cost of education

(6) Such portion of the income of a member of His Majesty’s Naval, Military or Air Forces, British or Indian, or of the Royal Indian Marine as is compulsorily payable by him under the orders, or with the approval of Government to a mess, wine or band fund

(7) The allowances attached to—

The Victoria Cross

The Military Cross

The Order of British India

The Indian Order of Merit

The King’s Police Medal

The Indian Police Medal

(8) The interest on Government securities held by, or on behalf of, Ruling Chiefs and Princes of India as their private property

(9) 'Jangi Inams' awarded to Indian officers, Indian other ranks and followers in respect of services in the Great War

(10) The yield of Post Office cash certificates

(11) The interest on deposits in the Post Office Savings Bank

(12) The income of a University or other educational institution existing solely for educational purposes and not for purposes of profit

(13) The income of "Thana Funds" administered by Political Agents in Kathiawar and of the "Secunderabad Local (Abkari, etc.), Fund" administered by the Resident at Hyderabad

(13-A) The income of the Rewa Kantha Mewas Administrations Fund, and of the Sankheda Mewas Road Fund administered by the Political Agent, Rewa Kantha

(13-B) The income of—

(a) the following funds controlled by the Resident for the States of Western India namely —

The Kathiawar Consolidated Local Fund, the Rajkot Civil Station Land Improvement Fund, the Rajkot Civil Station Fund, the Kathiawar Mounted Police Fund the Consolidated Local Fund, Mahi Kantha, the Consolidated Local Fund, Banas Kantha, including the Palanpur Agency Educational, Sihori, Deodai, Varahi, Santalpur Dispensaries, and Survey Funds, and the Sadia Bazar Fund,

(b) the village Police Funds, Kankrej, Deodai, Sugam, Vachhi, Santalpur, controlled by the Political Agent, Sabar Kantha Agency, and

(c) the Wadhwan Civil Station Fund controlled by the Political Agent, Eastern Kathiawar Agency

(13-C) Deleted (*Vide* Board's Notification No 13-Income-tax, dated the 24th December, 1938)

(13-D) The income of Regimental Institutes derived from rebates payable by Institute Contractors

(13-E) The interest on securities held by the Kathiawar Education Provident Fund

(13-F) The income of recognised Regimental Thrift and Savings Funds, the assets of which consist solely of deposits made by members and the profits earned by the investment thereof

(13-G) The income of the Kolhapur Residency Area Fund

(14) The salary of His Majesty's Trade Commissioners in India

(15) The salary of the Canadian Trade Commissioner in India at Calcutta

(16) The salary of the Trade Commissioner in India of the United States of America, and of any members of his staff who are citizens

of the U S A and have been detailed for duty with the said Trade Commissioner by the Government of the said States

(16-A ) The salary of the Italian Trade Commissioner in India and of any members of his staff who are citizens of Italy and have been detailed for duty with the said Trade Commissioner by the Italian Government

(16-B ) The salary of the Trade Commissioner for Ceylon in India and of any members of his staff who are citizens of Ceylon and have been detailed for duty with the said Trade Commissioner by the Ceylon Government

(17) The salaries of the correspondent of the International Labour Office, New Delhi, and his staff

(18) The salaries of the Organiser and Manager of the Branch Office of the League of Nations, Bombay, and his staff

(19) The salaries of Khasadars, Levies and Badraggas employed in the tribal territory on the North-West Frontier and of all persons employed in the tribal levy service in Baluchistan

(20) Deleted	} (Ind Board's Notification No 5-Income-tax, dated the 18th March, 1939 )
(21) Deleted	
(22) Deleted	
(23) Deleted	

(24) The pensions of officers of Government residing out of India drawn from any Colonial Treasury or paid in the United Kingdom whether such pensions are paid in sterling or by means of negotiable rupee drafts on a bank in India

(25) The salaries of the light-house keepers of light-houses in the Red Sea

(26) The pensions paid in the United Kingdom or in a Colony to officers of local authorities or employees of companies or of private employers, such officers or employees being resident out of India

(27) The interest on Mysore Durbar Securities

(28) Pensions granted to officers of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine in respect of wounds or injuries received in action or in the performance of their duties as members of such forces otherwise than in action

(28-A) *Extraordinary* pensions granted to Civil Officers (excluding family pensions granted as the result of the death of such an officer) under Chapter XXXVIII of the Civil Service Regulations, or the Army Regulations, India, as the case may be, in respect of wounds or injuries received in the performance of their duties

(29) Pensions granted to members of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine, who have been invalided from service with such forces on account of bodily disability attributable to, or aggravated by, such service

(30) Value of rations issued in kind or money allowances paid in lieu thereof, to any officer or other rank in His Majesty's Naval, Military or Air Forces, British or Indian, or in the Auxiliary Force, India, or in the Indian Territorial Force, or in the Royal Indian Marine

(31) Value of rent-free quarters occupied by or money allowance paid in lieu thereof to, Indian officers, British Warrant and non-commissioned officers and men of His Majesty's Military or Air Forces, and British and Indian Warrant officers of His Majesty's Naval and Marine Forces, in all cases irrespective of whether the individual concerned is married or single

(32) Conservancy allowance granted in lieu of free conservancy to non-departmental Warrant and non-commissioned officers of the India Unattached List, departmental non-commissioned officers of the India Unattached List not in receipt of consolidated rates of pay and Warrant and non-commissioned officers of the permanent staff of the Auxiliary and Territorial Forces

(33) The value of the free education provided for the children of British Warrant and non-commissioned officers and any grants-in-aid made to British Warrant and non-commissioned officers in lieu of the provision of free education for their children

(34) The income of persons other than persons in the service of the Government, residing in the district of Angul

(35) Deferred pay within the meaning of paragraph 254, Pay and Allowance Regulations for the Army in India, Part II paid to soldiers or non-Commissioned officers of the Indian Army

(35-A) Shore allowance granted to Warrant Officers of the Royal Indian Navy when employed on Marine Survey duties under paragraph 89 (c) of the Regulations for the Royal Indian Navy, Volume I.

(36) The income of indigenous hillmen, other than persons in the service of Government residing in the following areas of Assam —

The Naga Hills District

The Lushai Hills District

The Sadiya Frontier Tract

The Balipara Frontier Tract

The Lakhimpur Frontier Tract

The Garo Hills

The Jowai sub-division of the Khasi and Jaintia Hills District, and

The North Cachar Hills in the district of Cachar

(37) The perquisite represented by the right of any of the officers specified in the annexed list to occupy free of rent as a place of residence any premises provided by the Central Government, the Crown Representative or the Provincial Government as the case may be.

*List of officers*

The Governor General

The Commander-in-Chief

The Governor of a Governor's Province

The Chief Commissioner of any of the following Provinces,  
namely —

British Baluchistan,

Delhi,

Ajmer-Merwara,

Coorg,

The Andaman and Nicobar Islands, and

any first class Resident of the Indian Political Department Service

(38) Such part of income in respect of which the said tax is payable under the head "property" as is equal to the amount of rent payable for a year but not paid by a tenant of the assessee and so proved to be lost and irrecoverable, where—

(a) the tenancy is *bona fide*,

(b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property,

(c) the defaulting tenant is not in occupation of any other property of the assessee,

(d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Income-tax Officer that legal proceedings would be useless, and

(e) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the year during which that rent was due and income-tax has been duly paid on such assessed income

(39) The lump grants made by Government to the Indian Church—

(1) for the provision of episcopal supervision and ministrations,

(2) for the payment of allowances to clergymen entertained in lieu of Chaplaincies reduced, and

(3) in lieu of the grants-in-aid at present given for the entertainment of clergymen of the Additional Clergy Society under Articles 602 and 603 of the Civil Service Regulations

(40) When in any year an assessee has ceased to be an employee participating in a recognised Provident Fund and has been declared by the employer maintaining the Fund not to be eligible to receive the whole of the accumulated balance due to him, so much of his income as is assessable for that year shall be exempted from income-tax and shall be excluded from the computation of his total income for the purposes of the said Act as is equivalent to so much of the

accumulated balance due to him as has not been paid or is not payable to him, and if such amount exceeds the amount of his income in that year, so much of his income in the following year or years as is equal to the amount of such excess shall be so exempted and excluded in such year or years

(41) Income of a Service Fund derived from interest on Government securities or interest on funds deposited with the Central or any Provincial Government

For the purpose of this exemption, a Service Fund means a fund established under the authority of, or with the permission of, the Central or any Provincial Government for the purpose of securing deferred annuities to the subscribers, or payments to them in the event of their resignation or dismissal from the service in which they are employed, or provision for their wives or children after their death, or payments to their estate or their nominees upon their death, to which servants of the Crown are alone admissible as subscribers or members and the funds of which are either deposited with the Central or any Provincial Government or invested in Government Securities

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## II

### INCOMES INCLUDED IN TOTAL INCOME, BUT EXEMPT FROM INCOME-TAX

The following classes of income shall be exempt from the tax payable under the said Act, but shall be taken into account in determining the total income of an assessee for the purposes of the said Act —

- (1) The interest on Government securities purchased through the Post Office, and held in the custody of the Accountant-General, Posts and Telegraphs, provided that the exemption shall apply only to interest on securities so held on account of any one assessee up to a face value of Rs 22,500 (Finance Department Notification No 878-F, dated the 21st March 1922) [This shall cease to have effect in respect of interest paid after the 31st March 1939—*vide* Central Board of Revenue notification (Income-tax) No 6, dated 18th March 1939 ]
- (2) Sums received by an assessee on account of salary, bonus, commission, or other remuneration for services rendered, or in lieu of interest on money advanced, to a person for the purposes of his business,



where such sums have been paid out of, or determined with reference to, the profits of such business,

and by reason of such mode of payment or determination, have not been allowed as a deduction but have been included in the profits of the business on which income-tax has been assessed and charged under the head "business"

Provided that such sums shall not be exempt from the payment of super-tax unless they are paid to the assessee by a person other than a company and have already been assessed to super-tax (Finance Department Notification No 878-F, dated the 21st March 1922, as amended by Notification No 8, dated the 24th March 1928)

- (3) The profits of any Co-operative Society other than the Sanikatta Salt-owners' Society in the Bombay Presidency for the time being registered under the Co-operative Societies Act, 1912 (II of 1912), the Bombay Co-operative Societies Act, 1925, (Bombay Act VII of 1925), the Burma Co-operative Societies Act, 1927, (Burma Act VI of 1927) or the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), or the dividends or other payments received by the members of any such Society out of such profits

*Explanation*—For this purpose the profits of a Co-operative Society shall not be deemed to include any income, profits or gains from—

- (1) investments in (a) securities of the nature referred to in section 8 of the Indian Income-tax Act, or (b) property of the nature referred to in section 9 of that Act,
- (2) dividends, or
- (3) the 'other sources' referred to in section 12 of the Indian Income-tax Act

(F D C R Notification R Dis No 291-I T/25, dated the 25th August 1925, as amended by Notification No 26, dated the 25th June 1927, and by Notification No 35, dated the 20th October 1934)

- (4) Such part of the profits or gains of a firm which has discontinued its business, profession or vocation as is proportionate to the share of an assessee in the firm at the time of such discontinuance, if income-tax has at any time been charged on such business, profession or vocation under the Indian Income-tax Act.

1918 (VII of 1918), or if an assessment has been made on the firm in respect of such profits or gains under sub-section (I) of section 25 of the Indian Income-tax Act, 1922 (XI of 1922) (F D C R, Notification No 21, dated the 12th October 1929)

### III

INCOMES EXEMPT FROM SUPER-TAX, BUT NOT FROM INCOME-TAX

(Notification No 47, dated 9th December 1933)

The Governor General in Council is pleased to exempt from super-tax—

- (i) so much of the income of any Investment Trust Company as is derived from dividends paid by any other Company which has paid or will pay super-tax in respect of the profits out of which such dividends are paid

*Explanation*—For this purpose an Investment Trust Company means a company in respect of which the Governor General in Council is satisfied that —

- (i) it is a company having for its principal business the acquisition and holding of investments in the stocks, shares, bonds, debentures or debenture stocks of other companies or in securities issued by public authorities,
- (ii) it is not a company formed for the purpose of, or engaged in, acquiring or exercising control over any other company or group of companies or enabling any other persons to acquire or exercise such control,
- (iii) it is a company deemed under clause (b) of the Explanation to sub-section (I) of section 23-A, of the said Act, to be a company in which the public are substantially interested

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MODIFICATIONS UNDER SECTION 60 OF THE INDIAN INCOME TAX ACT, 1922

### I

(Notification No 23, dated the 11th June 1927)

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council

is pleased to make the modification hereinafter defined in respect of income tax in favour of the following class of income, namely, income derived from a railway or tramway business

### Modification

An assessee deriving income from a railway or tramway business may at his option require that in computing the profits or gains of such business the following allowance shall be made in lieu of the allowances specified in clause (v), clause (vi) and clause (vii) of sub-section (2) of section 10 of the said Act, namely, the actual expenditure incurred by the assessee during the previous year on repairs, replacements and renewals of plant, machinery, buildings and furniture which are the property of the assessee

Provided that an assessee who in any year has exercised the option hereinbefore conferred shall not be entitled save with the consent of the Commissioner of Income-tax to withdraw that option in any subsequent year

Provided further that nothing in this notification shall apply to an electric tramway

## II

(Notification No 12, dated the 4th April 1931)

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to direct as follows —

Where owing to the fact that the total income of an assessee has reached or exceeded a certain limit, he is liable to pay super-tax or to pay super-tax at a higher rate, the amount payable by him on account of income-tax and super-tax shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely —

- (a) the amount which would have been payable on account of income-tax and super-tax if his total income had been a sum less by one rupee than that limit, and
- (b) the amount by which his total income exceeds that sum.

## NOTIFICATIONS REGARDING SPECIAL OFFICERS

### I

(Notification No 19, dated the 1st April 1939)

In exercise of the powers conferred by sub-section (6) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), and in



## SCHEDULE

Serial No	Persons	Officer appointed to perform the functions of			
		Income tax Officer	Inspecting Assistant Commissioner of Income tax	Appellate Assistant Commissioner of Income tax	Commissioner of Income tax
1	2	3	4	5	6
1	Employés of the Madras and Southern Mahattha Railway except those under the audit of the Audit Officer, Railway Collieries, Calcutta	Income-tax Officer, 4th Circle, Madras	Inspecting Assistant Commissioner of Income tax, Central Range, Madras	Appellate Assistant Commissioner of Income tax, Central Range, Comba-tore	Commissioner of Income tax, Madras
2	All Government servants under the audit of the Accountant General, Madras	Income-tax Officer, 5th Circle, Madras	Do	Do	Do
3	All Government servants who are under the audit of the Deputy Accountant General, Posts and Telegraphs, Madras, but do not reside in the Andaman Islands	Income-tax Officer, 6th Circle, Madras	Do	Do	Do
4	Indian employees in Sind, Punjab and Delhi of Messrs Ralli Brothers	Income-tax Officer, Division, Karachi	Inspecting Assistant Commissioner of Income tax, Northern Division, Sind and Baluchistan, Ahmedabad	Appellate Assistant Commissioner of Income tax, Sind and Baluchistan, Karachi	Commissioner of Income tax, Bombay, Sind and British Baluchistan
5	European Staff of Messrs Volkart Brothers, working in the Punjab and Sind	Do	Do	Do	Do

6	Military employé's under the audit of the Controller of Military Accounts, Western Command, Karachi	Assistant Income tax Officer, Karachi	Do	Do	Do.
7	Military employés under the audit of the Controller of Military Accounts, Poona and Southern Command, Poona	Income tax Officer, Poona District	Inspecting Assistant Commissioner of Income tax, Central and Southern Divisions, Poona	Appellate Assistant Commissioner of Income tax, Central Division, Poona	Do
8	Persons not resident in British India with income arising in more than one province and assessed direct, and not through statutory agents under section 43 of the Indian Income-tax Act, 1922, (a) any part of whose income is derived from horse racing, (2) no part of whose income is derived from horse racing	Income tax Officer, Poona	Do	Do	Do
9	Persons not resident in British India who apply for refund of income tax under section 48 of the Indian Income tax Act 1922	Income-tax Officer, Non-Resident Refund Circle, Bombay	Inspecting Assistant Commissioner of Income tax, Bombay City	Appellate Assistant Commissioner of Income tax, A Division, Bombay City	Do
10	Persons not resident in British India who are not chargeable to income tax, by assessment and who apply for refund under section 48 or under section 49 of the Indian Income tax Act, 1922, or under any Notification issued by Government under section 60 (1) of the said Act providing for relief on account of double payment of income tax	Do	Do	Do	Do
11	Pensioners who draw their pensions in the United Kingdom and reside in Indian States	Do	Do	Do	Do
12	Pensioners who draw their pensions through Post Offices in Indian States and reside in those States	Do	Do	Do	Do

## SCHEDULE—contd

Serial No	Persons.	Officer appointed to perform the functions of			
		Income tax Officer	Inspecting Assistant Commissioner of Income tax	Appellate Assistant Commissioner of Income tax	Commissioner of Income tax
1	2	3	4	5	6
13	Religious and charitable institutions outside British India not liable to income tax under section 4 (3) (a) and (a) of the Indian Income tax Act applying for refund of tax deducted at source on interest on securities or for exemption certificates in respect thereof	Income tax Officer, Non Resident Refund Circle, Bombay	Inspecting Assistant Commissioner of Income tax, Bombay City	Appellate Assistant Commissioner of Income tax, A Division, Bombay City	Commissioner of Income tax, Bombay, Sind and British Baluchistan
14	"Thann Funds" administered by Political Agents in Kathiawar	Do	Do	Do	Do
15	Local or Thann Funds administered by Government officers in Indian States or in British administered areas in those States which are either not liable to income tax or have been exempted under section 60 of the Act when application is made on their behalf for refund of tax deducted at source on interest on securities or for exemption certificates in respect thereof	Do	Do	Do	Do
16	All persons assessed under section 41C	Do	Do	Do	Do

17	Employees of the Bombay, Baroda and Central India Railway and the Great Indian Peninsula Railway except those under the audit of the Audit Officer, Railway Collieries, Calcutta	Income-tax Officer, Salary Branch, Bombay City	Do	Appellate Assis- tant Commis- sioner of Income tax, B Division, Bombay City	Do
18	Employees of the Rajputana Minerals Company, Ltd	Income-tax Officer, Salaries, Bombay	Do	Do	Do
19	Employees of the Assam-Bengal Railway	Income-tax Officer, Chittagong	Inspecting Assis- tant Commis- sioner of Income tax, Range No IV, Shillong	Appellate Assis- tant Commis- sioner of Income tax, Range No III, Shillong	Commissioner of Income-tax, Bengal
20	Staff of Geologists and Geophysicists under Burma Oil Company Limited engaged in survey in Northern India, having centres at Karachi and Digboi	Income-tax Officer, Dibrugarh	Do	Do	Commissioner of Income-tax, Assam.
21	European employes in British India and Indian employes in Bengal, Bihar and Orissa, Assam and the United Provinces of Messrs Ralli Brothers	Income-tax Officer, Calcutta, District IIIA	Inspecting Assis- tant Commis- sioner of Income tax, Range No I, Calcutta	Appellate Assis- tant Commis- sioner of Income tax, Range No I, Calcutta	Commissioner of Income-tax, Bengal
22	European employes of Messrs Ralli Brothers in Berar	Do	Do	Do	Do
23	European employes of the Imperial Tobacco Company, India Limited, and the Indian Leaf Tobacco Development Company Limited, in the provinces of Bombay, Madras, United Provinces, Punjab, Bengal, Bihar, Orissa and Assam	Do	Do	Do	Do



SCHEDULE—contd

Serial No	Persons	Officer appointed to perform the functions of			
		Income-tax Officer	Inspecting Assistant Commissioner of Income tax	Appellate Assistant Commissioner of Income tax	Commissioner of Income tax
1	2	3	4	5	6
24	European employes of the Tobacco Manufacturers (India) Limited, and the Printers (India) Limited, in the provinces of Bombay, Madras, United Provinces, Punjab, Bengal, Bihar, Orissa and Assam	Income tax Officer, Calcutta, District IIIA	Inspecting Assistant Commissioner of Income tax, Range No I, Calcutta	Appellate Assistant Commissioner of Income tax, Range No I, Calcutta	Commissioner of Income tax, Bengal
25	Employés of the "Statesman Limited" stationed at Lahore and Delhi	Do	Do	Do	Do
26	Employes of Messrs Burmah Shell Oil Storage and Distributing Company of India, Limited, stationed at Delhi	Do	Do	Do	Do
27	Pensioners residing outside Bengal who are under the audit of the Accountant General, Bengal	Income - tax Officer, Central Salaries Circle, Calcutta	Do	Do	Do
28	Employés of the Bengal Nagpur Railway	Income - tax Officer, Railways and Miscellaneous Salaries Circle, Calcutta	Do	Do	Do

29	Employés of the East Indian Railway	Do			Do		Do
30	Government servants serving outside Bengal who are under the audit of the Accountant General Bengal	Do			Do		Do
31	Military employes under the audit of the Controller of Army Factory Accounts, Calcutta, who are serving outside Bengal or whose pension is disbursed by the said officer	Do			Do		Do
32	Pensioners and persons employed in Army Factories whose pensions and salaries are payable from Army Estimates through the Controller of Military Accounts, Eastern Command, Meerut and Lucknow Districts, Meerut, who reside in Bengal	Do			Do		Do
33	Employés of the Eastern Bengal Railway	Do			Do		Do
34	Employés of all Railway Collieries who are under the audit of the Audit Officer, Railway Collieries, Calcutta	Do			Do		Do
35	All employes in the Posts and Telegraphs Department under the Audit of the two Deputy Accountants General, Posts and Telegraphs (Postal and Telegraph Branches), Calcutta	Do			Do		Do
36	Employés of the India General Navigation and Railway Company, Ltd., and River Steam Navigation Company, Ltd., working in Bengal, Bihar Orissa and Assam, except those who carry on business in addition	Income-tax Officer, District V A, Calcutta	Inspecting Assistant Commissioner of Income tax, Range No II, Calcutta	Appellate Assistant Commissioner of Income-tax, Range No I, Calcutta			Do
37	Employés of W. T. Henley's Telegraph Works Company, Limited, stationed at Bombay, Karachi, Lahore, Delhi and Madras	Do			Do		Do

## SCHEDULE—contd.

Serial No	Persons	Officer appointed to perform the functions of			
		Income tax Officer	Inspecting Assistant Commissioner of Income-tax	Appellate Assistant Commissioner of Income-tax	Commissioner of Income-tax
1	2	3	4	5	6
38	Employees of the Bengal and North-Western Railway	Income-tax Officer, Gorakhpur	Inspecting Assistant Commissioner of Income-tax, United Provinces	Appellate Assistant Commissioner of Income-tax, Eastern Charge, United Provinces, Lucknow	Commissioner of Income-tax, Central and United Provinces
39	Employees of the Pertabpore Company, Limited	Do	Do	Do	Do
40	Persons (excluding pensioners and persons employed in Army factories) payable from Army Estimates through the Controller of Military Accounts, Eastern Command, Meerut and Lucknow districts, Meerut	Income-tax Officer, Military Circle, Meerut	Do	Appellate Assistant Commissioner of Income-tax, Western Charge, United Provinces, Meerut	Do
41	Government servants under the audit of the Deputy Accountant General, Posts and Telegraphs, Nagpur	Income-tax Officer, Salary Circle, Nagpur	Inspecting Assistant Commissioner of Income-tax, C P and Berar	Appellate Assistant Commissioner of Income-tax, Southern Charge, C P and Berar, Nagpur	Do

42 Officers of the Women's Medical Service and of the Junior Branch of the same	Income - t a x Officer, Simla	Inspecting Assis- tant Commis- sioner of Income- tax, Delhi Divi- sion	Appellate Assis- tant Commis- sioner of Income- tax, Delhi Range	Commissioner of Income - t a x, Punjab, N W F and Delhi Provinces
13 Members of the Nursing Staff of the Lady Minto's Indian Nursing Association	Do	Do	Do	Do
43-A Government servants under the audit of the Military Accountant General	Do	Do	Do	Do
44 Government servants under the audit of the Accountant General, Central Revenues (excluding Government servants in the Indian Audit and Accounts Service attached to Railway and Postal Audit Offices), the Deputy Accountant General, Posts and Telegraphs, Delhi, or the Audit Officer, Indian Stores Department, and Government servants resident in the Andamans who are subject to the audit of the Deputy Accountant General, Posts and Telegraphs, Madras	Income - t a x, Officer, Salary, Circle, Delhi	Do	Do	Do
45 Persons (not being ex-enemy nationals) paid through the Controller, Local Clearing Office (Enemy Debts)	Do	Do	Do	Do
46 Military pensioners resident in the States of Mewar, Bharatpur, Bikaner, Jaipur, Marwar, Alwar and Bhopal who are under the audit of the Controller of Military Accounts and Pensions, Lahore	Do	Do	Do	Do
47 Pensioners who draw their pensions from the Hyderabad (Deccan) Treasury and are under the audit of the Accountant General, Central Revenue,	Do	Do	Do	Do
48 Military employes stationed in Sind who are under the audit of the Controller of Military Accounts, R A F, Ambala	Income - tax Officer, Ambala	Inspecting Assis- tant Commis- sioner of Income tax, Delhi Divi- sion	Appellate Assis- tant Commis- sioner of Income- tax, Amritsar Range	Do

SCHEDULE—*concl'd*

## Indian Income-tax

[ACT XI

Serial No	Persons	Officers appointed to perform the functions of			
		Income tax Officer	Inspecting Assistant Commissioner of Income tax	Appellate Assistant Commissioner of Income tax	Commissioner of Income tax
1	2	3	4	5	6
49	Employees of the North Western Railway except those under the audit of the Audit Officer, Railway Colleges, Calcutta	Income tax Officer, Railway, Salary Circle, Lahore	Inspecting Assistant Commissioner of Income tax, Lahore Division	Appellate Assistant Commissioner of Income tax, Lahore South Range	Commissioner of Income tax, Punjab, N W F and Delhi Provinces
50	Employees of the Church Missionary Society, Church of England Zenana Missionary Society, and Church and Mission of Central Council of the Church Missionary Society residing in the Punjab, North-West Frontier Provinces, Baluchistan and Sind	Income tax Officer, D Ward, Lahore	Do	Do	Do
51	Employees of the American United Presbyterian Mission, residing in the United Provinces, in the Punjab and the North-West Frontier Province	Income tax Officer, Gujranwala	Do	Appellate Assistant Commissioner of Income tax, Lahore North Range	Do
52	Government servants under the audit of the Accountant General, Bihar	Income tax Officer, Salaries Circle, Ranchi	Inspecting Assistant Commissioner of Income tax, Bihar and Orissa	Appellate Assistant Commissioners of Income tax, in their respective Ranges	Commissioner of Income tax, Bihar and Orissa
53	Government pensioners under the audit of the Accountant General, Bihar	Do	Do	Do	Do
54	Employees of the Tin Plate Company of India, Ltd Golmuri (near Jamshedpur)	Do	Do	Do	Do

55	Employés of the Tata Iron and Steel Company at Jamshedpur	Do	Do	Do	Do
56	Employees of the European Mental Hospital, Ranchi	Do	Do	Do	Do
57	Employés of the Indian Mental Hospital, Ranchi	Do	Do	Do	Do
58	Employés of the Lac Research Institute, Namkum (near Ranchi)	Do	Do	Do	Do
59	Government servants and pensioners under the audit of the Comptroller, Orissa	Do	Do	Do	Do
60	Persons not resident in British India assessed through statutory agents under section 13 of the Indian Income-tax Act, 1922, whether their income arises in a single province or in more than one province	Income - tax Officer of the District in which the Statutory agent carries on the business by reason of which income tax is chargeable in his name under section 42, or where he resides as the case may be	Inspecting Assistant Commissioner of Income tax who has been appointed to perform the functions of an Inspecting Assistant Commissioner of Income tax in the area where the Income-tax Officer referred to in column 3 has jurisdiction	Appellate Assistant Commissioner of Income tax who has been invested with powers to hear appeals against the decision of the Income-tax Officer referred to in column 3	Commissioner of Income - tax of the Province concerned
61	Persons not resident in British India who are chargeable to income tax by assessment whether through statutory agents or direct and who apply for refund under section 48 of the Income-tax Act, 1922	Income - tax Officer of the District or Circle in which the applicant is chargeable by assessment	Do	Do	Do

## II

(Notification No 28, dated the 15th April 1939)

No 28 —In exercise of the powers conferred by sub-section (3) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to appoint the officers specified in column 1 of the Schedule hereto annexed to be *ex-officio* Appellate Assistant Commissioners of Income-tax for the Province specified in the corresponding entry in column 2 thereof

*Schedule*

Appellate Assistant Commissioners of Income-tax 1	Province 2
Assistant Commissioner for the time being of Ajmer Merwara	Ajmer Merwara
Assistant Commissioner for the time being of Coorg	Coorg
Deputy Commissioner for the time being of Andaman and Nicobar Islands	Andaman and Nicobar Islands

## III

(Notification No 29, dated the 15th April 1939)

In pursuance of sub-section (1) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby directs that the Appellate Assistant Commissioners of Income-tax for Ajmer-Merwara, Coorg and the Andaman and Nicobar Islands shall perform their functions in respect of all persons and of all incomes within their respective Provinces

**\*RULES MADE UNDER SECTION 59 OF THE INDIAN INCOME-TAX  
ACT, 1922.**

(Vide notification No 3-I T, dated the 1st April 1922 as amended from time to time)

1. These rules may be called the Indian Income-tax Rules, 1922

2 Any firm constituted under an Instrument of Partnership specifying the individual shares of the partners may, under the provisions of Section 26-A of the Indian Income-tax Act, 1922 (hereinafter in these rules referred to as the Act), register with the Income-tax Officer, the particulars contained in the said Instrument on application made in this behalf

Such application shall be signed by all the partners <sup>personally</sup> and shall be made—

(a) before the income of the firm is assessed for any year under section 23 of the Act, or

(b) if no part of the income of the firm has been assessed for any year under section 23 of the Act, before the income of the firm is assessed under section 34 of the Act, or

(c) with the permission of the Appellate Assistant Commissioner hearing an appeal under section 30 of the Act, before the assessment is confirmed, reduced, enhanced or annulled, or

(d) if the Appellate Assistant Commissioner sets aside the assessment and directs the Income-tax Officer to make a fresh assessment, before such fresh assessment is made

3 The application referred to in Rule 2 shall be made in the form annexed to this rule and shall be accompanied by the original Instrument of Partnership under which the firm is constituted, together with a copy thereof, provided that if the Income-tax Officer is satisfied that for some sufficient reason the original Instrument cannot conveniently be produced, he may accept a copy of it certified in writing by all the partners to be a correct copy, and in such a case the application shall be accompanied by a duplicate copy

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\*The rules which were made prior to 1st April 1924 were made by the Board of Inland Revenue and the rules which were made or amended subsequent to that date were made or amended by the Central Board of Revenue



## FORM I

Form of application for registration of a firm under Section 26-A of the Indian Income-tax Act, 1922

To

The Income-tax Officer,

Dated

19 .

Income-tax year 19 /19

1 We beg to apply for the registration of our firm under Section 26-A of the Indian Income-tax Act, 1922, for the assessment for the income-tax year 19 /19

2 The original  
A certified copy of the Instrument of Partnership under which the firm is constituted specifying the individual shares of the partners, together with a <sup>copy</sup> duplicate copy is enclosed. The prescribed particulars are given in the Schedule below

3 We do hereby certify that the profits (or loss if any) of the previous year were divided or credited as shown in Section B of the Schedule and that the information given above and in the attached Schedule is correct

(Signatures)

(Address)

NOTE — This application must be signed <sup>personally</sup> by all the partners in the firm as constituted at the date on which the application is made

## SCHEDULE

Name of partner	Address	Date of admittance to partnership	(1) Interest on capital or loans (if any)	(1) Salary or commission from firm	(2) Share in the balance of profits (or loss) (in rupees and paise in the Rupee)	Remarks
1	2	3	4	5	6	7

(A) Particulars of the firm as constituted at the date of this application

(B) Particulars of the apportionment of the income, profits or gains (or loss) of the business, profession or vocation in the previous year between the partners who in that previous year were entitled to share in such income, profits or gains (or loss)

NOTE —(1) If the interest, salary and/or commission is payable (or allowable) only if there are sufficient profits available this fact should be noted by marking the items in the appropriate columns with the letter "R" (In other cases the interest, salary and/or commission may exceed the total profits so as to leave a balance of net loss divisible in column 6 )

(2) If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses this fact should be indicated by putting against his share in column 6 the letter "P"

4 (1) If, on receipt of the application referred to in Rule 3, the Income-tax Officer is satisfied that there is a firm in existence constituted as shown in the instrument of partnership and that the application has been properly made, he shall enter in writing at the foot of the instrument or certified copy, as the case may be, a certificate in the following form, namely —

"This instrument of partnership has this day  
certified copy of an instrument of partnership  
 been registered with me, the Income-tax Officer for \_\_\_\_\_ in  
 the Province of \_\_\_\_\_ under Section 26-A of the Indian  
 Income-tax Act, 1922, and this certificate of registration shall have  
 effect for the assessment for the year ending on the 31st day of March  
 19 \_\_\_\_"

(2) If the Income-tax Officer is not so satisfied, he shall pass an order in writing refusing to recognise the instrument of partnership, or the certified copy thereof, and furnish a copy of such order to the applicants

(3) The certificate referred to in paragraph (1) above shall be signed by the Income-tax Officer, who shall thereupon return to the applicants the Instrument of Partnership or the certified copy thereof, as the case may be, and shall retain the copy or the duplicate copy thereof

5 The certificate of registration granted under Rule 4 shall have effect only for the assessment to be made for the year mentioned therein

6 Any firm to whom a certificate of registration has been granted under Rule 4 may apply to the Income-tax Officer to have the certificate of registration renewed for a subsequent year. Such application shall be signed by all the partners of the firm and accompanied by a

certificate in the form set out below The application shall be made within the time and subject to the conditions, if any, which are specified in clause (a), clause (b), clause (c), or clause (d) as the case may be, of Rule 2

FORM OF APPLICATION FOR THE RENEWAL OF REGISTRATION OF A FIRM UNDER SECTION 26-A OF THE INDIAN INCOME-TAX ACT, 1922

To

The Income-tax Officer,

Dated

19 .

*Assessment for the Income-tax Year 19 /19*

1 We beg to apply for the renewal of the registration of our firm under Section 26 A of the Indian Income-tax Act, 1922, for the assessment for the income-tax year 19 /19 .

2 The instrument of partnership was registered by the Income-tax Officer for certified copy of the instrument of partnership in the Province of on the of 19 and we hereby certify that the constitution of the firm as specified in the instrument of partnership certified copy of the instrument of partnership so registered on remains unaltered

(Signatures)

(Address)

NOTE —This application must be signed <sup>personally</sup> by all the partners in the firm

**6A** On receipt of an application under Rule 6 of the Income-tax Officer may, if he is satisfied that the application is in order, grant to the assessee a certificate signed and dated by him in the following form —

“The registration of the firm of granted on is renewed by me and will remain effective for the assessment for the year ending on the 31st day of March 19 ”

If the Income-tax Officer is not so satisfied, he shall pass an order in writing refusing to renew the registration of the firm

**6B** In the event of the Income-tax Officer being satisfied that the certificate granted under Rule 4, or under Rule 6-A, has been

obtained without there being a genuine firm in existence, he may cancel the certificate so granted

7 Under section 9(1) (vi) of the Act, the sum to be allowed in respect of collection charges shall not exceed 6 per cent of the annual value of the property

8 An allowance under section 10 (2) (vi) of the Act in respect of depreciation of buildings, machinery, plant or furniture shall be made in accordance with the following statement —

Class of buildings, machinery, plant or furniture	Rate	Remarks
	Percent age on prime cost	
1 Buildings*—		
(1) First class substantial buildings of selected materials	2½	*Double these rates may be allowed for buildings used in industries which cause special deterioration, such as chemical works, soap and candle works, paper mills, and tanneries
(2) Buildings of less substantial construction	5	
(3) Purely temporary erections such as wooden structures	10	
2 Machinery, Plant or Furniture—		
General rate	5	The special rates for electrical machinery specified hereinafter may be adopted at the option of the assessee for that portion of the machinery
Special rates are sanctioned as under in the following cases —		
A Plant and machinery used in—		
(1) Flour Mills, Rice Mills, Bone Mills, Sugar Works, Distilleries, Ice Factories, Aerating Gas Factories, Match Factories	6½	
(2) Paper Mills, Strawboard Mills, Ship Building and Engineering Works, Iron and Brass Foundries, Aluminium Factories, Electrical Engineering Works, Motor Car Repairing Works, Galvanizing Works, Patent Stone Works, Oil Extraction Factories, Chemical Works, Soap and Candle Works, Lime Works, Saw Mills, Dyeing and Bleaching Works, Cement Works using rotary kilns, Rod Mills	7½	
(3) Brick manufacture, tile making industry, the manufacture of (a) vegetable ghee, (b) optical instruments, (c) coke and (d) concrete pipes, glass factories, Telephone Companies, Mines and Quarries, Wire and Nail making Mills	10	
B Furniture and Plant in hotels and boarding houses	7½	

Class of buildings, machinery, plant or furniture.	Rate	Remarks
2 Machinery, Plant or Furniture— <i>contd</i>	Percent- age on prime cost	
C (1) Comptometers, Typewriters, Tube well boring plant, concrete pile driving machines	10	
(2) Sewing and knitting machines employed in hosiery factories	10	
(3) Sewing machines for canvas or leather	12½	
(4) Motor cars used solely for the purpose of business	15	
(5) Indigenous sugarcane crushers (Kohlus or Belans)	15	
(6) Moulds used in the manufacture of concrete pipes	16	
(7) Motor taxis, motor lorries and motor buses	20	
(8) Ropeway ropes and trestle sheaves and connected parts	25	
D Ropeway structures—		
(1) Trestle and station steel work	5	
(2) Driving and tension gearing	7½	
(3) Carriers	10	
E Salt Works—		
(1) Machinery, plant, locomotives, wagons and rolling stock	10	
(2) Tugs, barges, motor launch and floating plant	7½	
(3) General plant and machinery used in engineering shops	7½	
(4) Reservoirs, condensers, salt pans, delivery channels and piers, if constructed of masonry, concrete, cement, asphalt or similar materials	5	
NOTE—Repairs to earth works of the same kind will be allowed as revenue expenditure		
(5) Piers, quays and jetties constructed entirely or mainly of steel	5	
(6) Pier-, quays and jetties constructed entirely or mainly of wood	10	
(7) Pipe lines for conveying brine if constructed of masonry, concrete, cement, asphalt or similar materials	10	
3 Electrical Machinery—		
(a) Batteries	15	
(b) Other electrical machinery, including electrical generators, motors (other than tramway motors), switchgear and instruments transformers and other stationary plant and wiring and fittings of electric light and fan installations	7½	
(c) Underground cables and wires	6	
(d) Overhead cables and wires	2½	
(e) X-Ray and Electro therapeutic apparatus and accessories thereto	20	

Class of buildings, machinery, plant or furniture	Rate	Remarks
	Percent age on prime cost	
3 Electrical Machinery— <i>contd</i>		
(f) Silk Manufacturing—Weaving Machinery worked by electric motors including winding machines, twisting frames, doubling machine, pirn winding machine, warping machine, looms, stentering machine and hydro extractor	7½	
(g) Air-conditioning machinery	7½	
(h) Machinery used in the production of cinematograph films, namely — Recording equipment, Reproducing equipment, Developing machines, Printing machines, Editing machines, Synchronisers and Studio lights	15	
4 Hydro Electric concerns— Hydraulic works, pipe lines, sluices, and all other items not otherwise provided for in this statement	2½	
5 Electric Tramways—Permanent Way—		
(a) Not exceeding 50,000 car miles per mile of track per annum	6½	
(b) Exceeding 50,000 and not exceeding 75,000 car miles per mile of track per annum	7½	
(c) Exceeding 75,000 and not exceeding 1,25,000 car miles per mile of track per annum	8½	
Cars—car tracks, car bodies, electrical equipment and motors	7	
General plant, machinery and tools	5	
6 Mineral Oil concerns—		
A Refineries—		
(1) Boilers	10	
(2) Prime movers	5	
(3) Process plant	10	
B Field operations—		
(1) Boilers	10	
(2) Prime movers	5	
(3) Process plant	7½	
Except for the following items —		
(1) Below ground	100	
(2) Above ground—		
(a) Portable boilers, drilling tools, wellhead tank, rigs, etc	25	
(b) Storage tanks	10	
(c) Pipe lines—		
(i) Fixed boilers	10	
(ii) Prime movers	7½	
(iii) Pipe line	10	

Class of building, machinery, plant or furniture	Rate	Remarks
	Percent- age on prime cost	
7 Ship—		
(1) Ocean—		
(a) Steam	5	
(b) Sail or tug	1	
(2) Inland—		
(a) Steamers (over 120 ft. in length)	5	
(b) Steamers including cargo launches (120 ft. in length and under)	6	
(c) Tug boats	7½	
(d) Iron or steel flats for cargo, etc.	5	
(e) Wooden cargo boats up to 50 tons capacity	10	
(f) Wooden cargo boats over 50 tons capacity	7½	
(g) Motor launches	10	
(h) Speed boats*	15	* "Speed Boats" means a motor-driven boat with a high speed internal combustion engine capable of propelling the boat at a speed exceeding 15 miles per hour in still water and so designed that when running at speed it will plane—i.e., its bow will rise from the water.
8 Mines and Quarries—		
(1) Railways siding† (excluding rails)	5	† Depreciation on rails used for tramways and siding, and on inclines where the rails are the property of the assessee, is allowed at 10 per cent under item 2 above (plant used in connection with Mines and Quarries) in addition to any depreciation allowance on the cost of constructing the tramway siding or incline.
(2) Shafts	5	
(3) Inclines†	5	
(4) Tramways on the surface† (excluding rails)	10	
9 Aeroplanes—		
(1) Aircraft	25	
(2) Aeroplanes	3½	
(3) Aircraft photography apparatus	20	

8A Omitted

9 Omitted

9A Omitted

10 All sums deducted in accordance with the provisions of section 18 of the Act shall be paid—

(a) in the case of deduction by or on behalf of Government on the same day, and

(b) in all other cases within one week from the date of such deduction or the date of receipt of the chalan by the person making the deduction, as the case may be

Provided that in cases falling under (b) the Income-tax Officer may, in special cases, and with the approval of the Inspecting Assistant Commissioner, permit an employer to pay the income-tax and super-tax deducted from any income chargeable under the head "Salaries" quarterly on June 15th, September 15th, December 15th and March 15th

10A The prescribed rate of exchange for the calculation of the value in rupees of any income chargeable under the head 'Salaries' which is payable to the assessee out of India in sterling by or on behalf of Government shall be 1s 6d per rupee

11 (1) In the case of income chargeable under the head 'Salaries' where deduction is not made by or on behalf of Government, the person making the deduction shall forthwith send to the Income-tax Officer within whose jurisdiction the deduction is made, (or where there is more than one Income-tax Officer having jurisdiction in the same area to the Income-tax Officer specified by the Commissioner of Income-tax) a statement giving the following particulars —

- 1 Name of employee
- 2 Amount of salary (or wages) paid during the month
- 3 Leave salary or allowance, if any, paid in the United Kingdom or in a Colony
- 4 Date of payment
- 5 Period for which the salary (or wages) was paid
- 6 House rent allowance paid
- 7 Value of rent free quarters
- 8 Bonus, gratuity, fees, commissions, perquisites, or other allowances, profits in lieu of or in addition to salary, payments at or in connection with the termination of the employment, advances of salary, and all other sums paid which are chargeable to income-tax (full details showing amount, date of payment and period for which due are to be given for each item separately)
- 9 Salary, bonus and all other sums, which were due to be paid during the month but were not actually paid (full



details showing the amount, due date, period for which the amount was payable to be given for each separately)

- 10 Estimated total yearly income under the head "Salaries"
- 11 Average rate of income-tax
- 12 Average rate of super-tax
- 13 Yearly amounts paid or deducted in respect of provident or superannuation or other funds and life insurance premiums (with details)
- 14 Net amount upon which tax has been deducted during the month
- 15 Amount of income-tax deducted during the month
- 16 Amount of super-tax deducted during the month

(2) In cases where the trustees of an approved Superannuation Fund repay any contributions to an employee during his life-time but not at or in connection with the termination of his employment they shall forthwith send to the Income-tax Officer specified in sub-rule (1) a statement giving the following particulars—

- 1 Name and address of the employee
- 2 The period for which the employee has contributed to the Superannuation Fund
- 3 The amount of contributions repaid—
  - (a) Principal,
  - (b) Interest
- 4 The average rate of deduction of income-tax during the preceding three years
- 5 Amount of income-tax deducted on repayment

(3) The statements referred to in sub-rules (1) and (2) shall be drawn up in separate sections one for each place where the employees are stationed and an additional extract of those sections relating to employees who are residing outside the jurisdiction of the Income-tax Officer referred to above shall also be sent with the statement

(4) The person responsible for making the deduction, or the trustees, as the case may be, shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in Rule 10 into the Government Treasury or office or the Reserve Bank of India or of the Imperial Bank of India accompanied by an Income-tax chalan, blank copies of which shall be supplied by the Income-tax Officer for the purpose, provided that on receipt of the above-mentioned statement the Income-tax Officer may, if so expressly requested and if satisfied that there is sufficient ground for the request, himself have the necessary chalan prepared and forwarded to the person concerned, who shall thereupon pay the amount to the credit of the Central Government in the manner above described

12 In the case of any income chargeable under the head 'Interest on Securities' the person responsible for paying the interest shall at

the time of deduction send to the Income-tax Officer concerned a statement showing the following particulars —

- (i) Name and address of the recipient
- (ii) Description of securities
- (iii) Numbers of securities
- (iv) Dates of securities
- (v) Amounts of securities
- (vi) Period for which interest is drawn
- (vii) Amount of interest, and
- (viii) Amount of tax

**12A** The person making deductions in accordance with sub-sections (3A), (3B), (3C), (3D) and (3E) of Section 18 shall at the time of deduction send to the Income-tax Officer concerned a statement showing the following particulars —

- 1 Name and address of the non-resident on whose behalf the tax is deducted
- 2 The date of payment and in the case of dividend the date of the declaration of the dividend by the company
- 3 The nature of payment
- 4 The amount paid —
  - [(i) in the case of interest the rate per cent per annum, the period for which the interest has been paid and the amount on which the interest has been computed,]
  - [(ii) in the case of dividend the gross amount before deducting income-tax along with the basis of the computation of the gross amount]
- 5 The amount of income-tax deducted
- 6 The amount of super-tax deducted

**12B** On receipt of the statements prescribed in Rules 12 and 12-A, the Income-tax Officer shall without delay prepare the necessary chalan and send it to the person responsible for making the deduction who shall pay the amount to the credit of the Central Government by remitting it into the Government Treasury, or office of the Reserve Bank of India or of the Imperial Bank of India as the case may be within the time limit specified in Rule 10 provided that where deduction is made by or on behalf of Government the amount shall be credited within the time and in the manner aforesaid without production of a chalan

**13** The certificate to be furnished under section 18 (9) of the Act by any person paying interest chargeable to income-tax on any security of the Central Government or of a Provincial Government shall be in the following form —

Draft No (\*)

Certified that Rs \_\_\_\_\_ being income-tax at the  
 rate of \_\_\_\_\_ pies per rupee has been deducted by draft of this date  
 from Rs \_\_\_\_\_ being the amount of interest  
 for Rs \_\_\_\_\_ on (1) \_\_\_\_\_ for Rs \_\_\_\_\_  
 standing in the name of \_\_\_\_\_ for Rs \_\_\_\_\_

19

*Superintendent or Principal Officer.*

(To be signed by claimant)

I hereby declare that the securities on which interest as above  
 specified has been received were my own property and were in the  
 possession of \_\_\_\_\_ at the time when  
 income-tax was deducted

*Signature**Date*

**13A** The certificate (2) to be furnished under section 18 (9) of  
 the Act by the person paying any interest on debentures or other  
 securities for money issued by or on behalf of a local authority or a  
 company shall be in the following form —

Name of Local Authority/Company

Address

To (3)

Name and address of payee (4)

I/We hereby certify that Rs \_\_\_\_\_ being income-tax at the rate  
 of \_\_\_\_\_ pies per rupee has been deducted from Rs \_\_\_\_\_ being the  
 amount of interest at the rate of \_\_\_\_\_ per cent per annum due (5)  
 on debentures Nos \_\_\_\_\_ of Rs \_\_\_\_\_ each of the (6)  
 and that it has been or will, within the prescribed period, be paid by  
 me/us to the Central Government at

*Superintendent, Public Debt Office,  
 or Principal Officer or Managing Agents.*

19

(N B —The securities to be produced when required in support of any claim )

\*This number also appears in the interest cages on the back of the Securities,

(1) Name of Security

(2) In the case of bearer debentures or bonds a certificate under section 18  
 (9) shall only be given if the recipient of the interest declares the name and  
 address of the real owner of the security at the time of receiving the interest

(3) Name and address of the owner of security should be given here In the  
 case of bearer debentures or bonds, these particulars are to be given as declared  
 by the payee concerned

(4) To be completed only in the case of bearer debentures or bonds

(5) The date on which interest is payable

(6) Here enter the name of the local authority or the company

(To be signed by claimant )

I hereby declare that the securities on which interest as above specified has been received, were my own property and were in the possession of \_\_\_\_\_ at the time when income-tax was deducted

*Signature*

*Date*

(N B —The securities to be produced when required in support of any claim )

**13B.** The certificate to be furnished under section 18 (9) of the Act by the person paying any interest not being "interest on securities" or any other sum chargeable under the provisions of the Act shall be in the following form —

Name of person making payment

Nature of payment

Address

To

Name and address of payee

I/We hereby certify that Rupees \_\_\_\_\_ being income-tax at the rate of \_\_\_\_\_ pies per rupee and Rupees \_\_\_\_\_ being super-tax at the rate \_\_\_\_\_ applicable have been deducted from Rupees \_\_\_\_\_ being the amount paid on \_\_\_\_\_ \* at the rate of \_\_\_\_\_ per cent per annum for the period (1) computed on the amount of Rupees (2)

Signature of person making payment

**13C** The certificate to be furnished under section 18(9) of the Act by the person paying any dividend on shares registered in the Reserve Bank of India shall be in the following form —

Name of person paying dividend

Address

To

Name of payee

I hereby certify that Rs \_\_\_\_\_ being income-tax at the rate of \_\_\_\_\_ pies per rupee has been deducted from Rs \_\_\_\_\_ being the amount of dividend at the rate of \_\_\_\_\_ per cent per annum due (3) on \_\_\_\_\_ shares of Rs. \_\_\_\_\_ and that it has been or will, within the prescribed period, be paid by the bank to the Central Government at

*Governor,*

*Reserve Bank of India*

19

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\* This applies to payment of interest only

(1) Here specify the period for which interest has been paid

(2) Here state the amount on which interest has been computed

(3) Here specify the date on which refund is payable

(To be signed by claimant)

I hereby declare that the shares on which dividend as above specified, has been received, were my own property and were in the possession of \_\_\_\_\_ at the time when the income-tax was deducted

*Signature**Date*

(N.B.—The shares/certificates to be produced when received in support of any claim)

14 The certificate to be furnished by the principal officer of a company under section 20 shall be in the following form —

*(Name of Company)**(Address of Company)**Date*

Warrant for Rs (in words and figures or, if the certificate is crossed by an entry in words stating that the amount of dividend is under the next multiple of Rs 50 above that amount, in figures only)

, being dividend <sup>(1)</sup> at the rate of Rs \_\_\_\_\_ (in words and figures) per share for the <sup>(2)</sup> \_\_\_\_\_ /the period from to \_\_\_\_\_ during the year ending on the \_\_\_\_\_ day of 19\_\_\_\_, <sup>(3)</sup> \_\_\_\_\_ on <sup>(4)</sup> \_\_\_\_\_

shares in this Company, registered during the said period/on (Date) \_\_\_\_\_ in the name of \_\_\_\_\_ This dividend was declared \_\_\_\_\_ at the <sup>(5)</sup> \_\_\_\_\_ meeting held on the <sup>(6)</sup> \_\_\_\_\_

19

I/We hereby certify that income-tax on the entire/such part as is liable to be charged to Indian Income-tax of the profits and gains of the Company, of which this dividend forms a part, has been, or will be duly paid by me/us to the Government of India

*Signature**Date*


---

(1) Or dividend and bonus

(2) Year or half-year, as the case may be

(3) Here enter whether free of income tax or not

(4) Here enter number and description of shares

(5) Here specify number and nature of meeting

(6) Here enter date

(To be signed by the claimant )

I hereby certify that the dividend above mentioned relates to shares which were my own property at the time when the dividend was declared/during the period from \_\_\_\_\_ to \_\_\_\_\_/on (Date) and were in the possession of \_\_\_\_\_

*Signature*

*Date*

15 The returns for Government officers under section 21 of the Act shall be prepared and submitted to the Income-tax Officer by —

- (a) Civil Audit Officers for all gazetted officers and others who draw their pay from audit offices on separate bills, and also for all pensioners who draw their pensions from audit offices
- (b) Treasury officers for all gazetted officers and others who draw their pay from treasuries on separate bills without countersignature, and also for all pensioners who draw their pensions from treasuries
- (c) Heads of Civil or Military offices for all non-gazetted officers whose pay is drawn on establishment bills or on bills countersigned by the head of office
- (d) Forest disbursing officers and Public Works Department disbursing officers in cases where direct payment from treasuries is not made, for themselves and their establishments
- (e) Head postmasters for (i) themselves, their gazetted subordinates and the establishments of which the establishment pay bills are prepared by them and (ii) gazetted supervising and controlling officers of whose headquarters post office they are in charge and (iii) pensioners drawing their pensions through post offices, Head Record Clerks, Railway Mail Service, for themselves and all the staff whose pay is drawn in their establishment pay bills, the Disbursing Officers in the case of the Administrative and the Audit offices
- (f) Controllers of Military Accounts (including Divisional Military Supply, Marine, Field and War Controllers) for all gazetted military officers under their audit
- (g) Disbursing officers in the Military Works Department for themselves and their establishments
- (h) Chief Accounts officers or Chief Auditors of Railways concerned for all railway employes under their audit

16 The minimum income under the head "salaries" referred to in section 21(a), shall be Rs 1,600 per annum

17 The return to be delivered to the Income-tax Officer under section 21 of the Indian Income-tax Act, 1922, to be made within thirty days from the 31st day of March in each year by the prescribed person in the case of every Government office, and the principal

officer or the prescribed person in the case of every local authority, company or other public body or association and every private employer shall be made and verified in the following form —

Designation of { Government office  
Local authority  
Company  
Public body  
Association  
Private employer }

Serial No	Name of employee	Postal address of residence	Appointment or nature of employment	Total amount of salary, wages, annuity or pension paid during the year ending on 31st March 19	Period for which items in Column 5 were paid	House allowance paid during the year	Value of rent free quarters for the year
1	2	3	4	5	6	7	8

Bonus, gratuity, fees, commission, perquisites or other allowances, profits in lieu of salary payments made at or in connection with the termination of employment, advances of salary, etc, and all other sums paid which are chargeable to income tax (Full details showing the total amount paid during year, period for which the payments were made are to be given separately for each distinct class of payment)	Salary, bonus, all other sums which were due to be paid during the year but which were not actually paid (Full details showing the amount, the due date, and the period for which the amount was payable are to be given)	Total of columns 5, 7, 8, 9 & 10	Yearly amounts paid in respect of Provident Fund Contributions and Life Insurance premiums (give details)	Net amount upon which tax has been deducted during the year	Total amount of income-tax deducted during the year	Remarks
9	10	11	12	13	14	15

I certify that the above statement contains a complete list of the total amounts paid by to all persons who were receiving or to whom was due income on the 31st day of March 19 , at the rate of Rs 1,600 per annum or have received or to whom was due during the year ended on that day not less than Rs 1,600 in respect of salary, wages, annuity, pensions, gratuity, fees, commission, perquisites or profits in lieu of or in addition to salary or wages, advances of salary payments at or in connection with retirement or any other sums chargeable to income tax under the head "salaries" and that all the particulars stated are correct

Dated \_\_\_\_\_

Signature of person by whom the return is delivered

at \_\_\_\_\_

Designation

18 The manner of publication under sub-section (1) of section 22 other than publication in the press shall be as follows —

On or before the 1st May in each year, a notice, in the form set out in Rule 18-A, or as near thereto as may be, requiring every person whose income exceeds the maximum amount which is not chargeable to income-tax, to furnish a return of his total income and total world income during the previous year in the prescribed form and verified in the prescribed manner shall be affixed to the notice board of the Income-tax Officer's office and (with the consent of the Provincial Government where such consent is necessary and has been obtained) of as many of the following offices or Courts situated within the Income-tax Officer's jurisdiction as may be practicable —

- 1 All Head Post Offices and Sub-Post Offices
- 2 Courts of the District Judges, Subordinate Judges, Civil Judges and District Munsiffs
- 3 Offices of the District Collectors, Deputy Commissioners, Divisional and Sub-Divisional Officers, Tahsildars, Mamlatdars and Mukhtarkars

18-A The notice referred to in sub-section (1) of section 22 shall be in the following form —

## NOTICE

### INCOME-TAX

*Return of total income and of total world income of the previous year for assessment in the year commencing on the 1st April 19*

In pursuance of sub-section (1) of section 22 of the Indian Income-tax Act, 1922 (XI of 1922), notice is hereby given to EVERY PERSON whose total income during the previous year exceeded the maximum amount not chargeable to Income-tax to furnish within sixty days from the date of this Notice a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as are required by the said form) his total income and total world income during that year

A copy of the prescribed form will be supplied free of charge to any person who, for the purpose of complying with this notice, applies at my office

*Penalty* — Any person who fails without reasonable cause to furnish the return required by this Notice, or fails without reasonable cause to furnish it within the time allowed or in the manner required



is liable under Section 28 of the said Act to a penalty not exceeding one and a half times any tax payable by him

Income-tax Officer

Address

Date

NOTE —For the year commencing on 1st April 1939, the maximum amount which is not chargeable to income-tax is as follows —

In the case of—

(i) Any Court of Wards Administrator General, Official Trustee, any Receiver or Manager appointed under any order of a Court, or any trustee or trustees appointed under a duly executed trust deed, where the income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown

Rs nil

(ii) Any company or local authority

Rs nil

(iii) Any person, being a British subject or the subject of a State in India or Burma, who is not resident in British India and whose total world income exceeds Rs 2,000

Rs nil

(iv) Any other non-resident person

Rs nil

(v) Any other individual, Hindu undivided family, firm or association of persons

Rs 2,000

19<sup>(v)</sup> The return of total income and total world income for individuals, Hindu undivided families, companies, local authorities, firms and other associations of persons required under sub-section (1) or sub-section (2) of section 22 shall be in the following form —

Form of return of total income and total world income for individuals, Hindu undivided families, companies, local authorities, firms, and other associations of persons under sub-sections (1) or (2) of section 22 of the Indian Income-tax Act, 1922 (See note 1)

Income-tax year 19 -19

Name

Status

Address

## PART I

## Statement of total income and total world income during the previous year (See note 2 )

Sources of income (See note 3 )	Amount of Income, Profits or Gains (See note 4 )	Tax already charged or deducted at source (See note 5 )	
1	2	3	
SECTION A—INCOME WHICH ACCRUED, AROSE, OR WAS RECEIVED OR IS DEEMED TO HAVE ACCRUED, ARISEN OR BEEN RECEIVED IN BRITISH INDIA ( <i>and, unless the assessee is not resident in British India, income arising abroad from a business controlled in, or a profession or vocation set up in India, including Indian States</i> )	Rs	Rs	A
1 SALARIES (The value of rent-free quarters and contributions by your employer to a recognised Provident Fund should be shown separately) (See note 6 )			
2 INTEREST ON SECURITIES—(See note 7 ) Interest from which tax has been deducted Interest which is tax-free			
3 PROPERTY —(See note 8 ) Total amount as detailed in PART VI of this Return			
4 BUSINESS, PROFESSION OR VOCATION —(See note 9 ) (a) Profits and gains as detailed in PART IV of this Return (b) Share of profits in a registered firm (c) Share of profits in an unregistered firm			
5 OTHER SOURCES Dividends from companies (gross amount)—(See note 10 ) Interest on Mortgages, Loans, Fixed Deposits, Current Accounts, etc Ground Rents Sources other than those mentioned above (Give details)—(See note 11 )			
TOTAL OF SECTION A			
SECTION B—INCOME NOT INCLUDED IN SECTION A WHICH ACCRUED, OR AROSE OUTSIDE BRITISH INDIA AND WAS BROUGHT INTO BRITISH INDIA DURING THE PREVIOUS YEAR ( <i>Persons not resident in British India should write "not applicable" in this section</i> )			
1 Out of income which accrued or arose during such previous year (Give details)			
2 Out of income which accrued or arose prior to such previous year but after 1st April 1933 (Give details) —(See note 13 )			

Sources of income (See note 3 )	Amount of Income, Profits or Gains (See note 4 )	Tax already charged or deducted at source (See note 5 )	
1	2	3	
<b>SECTION C—INCOME WHICH ACCRUED OR AROSE OUTSIDE BRITISH INDIA DURING THE PREVIOUS YEAR AND IS NOT INCLUDED IN SECTION A OR B —(See note 13 )</b> (a) Non residents should show the full amount in column 2 (b) Persons resident but not ordinarily resident in British India should write the words "not applicable" in this section (c) Persons ordinarily resident should give details in the sub column and deduct Rs 4,500 before carrying the total to the main column. If, in the case of such a person, the income is less than Rs 4,500, no details need be given, and the words "less than Rs 4,500" may be written in this section <i>Details —</i>	Rs	Rs	A
<i>Less (for persons ordinarily resident in British India)</i>	Rs 4,500		
<b>TOTAL OF SECTIONS A, B AND C</b> <i>—(See note 12)</i>	Rs		

**PART II.**

**Statement of sums included in total income in respect of which Income-tax is not payable (See note 14 )**

	Rs
1 Sums deducted from salary payable by the Crown and to which the proviso to sub section 1 of section 7 of the Act applies (See note 15)	
2 Sums paid to effect an insurance on the life of the assessee or on the life of his wife, or her husband or in respect of a contract for a deferred annuity, or, in the case of a Hindu undivided family, to effect an insurance on the life of any male member or his wife (The original receipt or certificate from the insurance company must be attached)	
3 Contributions to (a) any provident fund to which the Provident Funds Act, 1925, applies, (b) a recognised provident fund or (c) an approved superannuation fund and (d) interest on contributions to a recognised provident fund and accumulations thereof which is exempt from Income tax (See note 16)	
4 Share in the income of an unregistered firm or an association of persons where the tax has already been paid or is payable on the income by the firm or association (Give details)	
5 Interest on tax free securities	
Total Rs	

## PART III

Particulars required under sub-section (5) of section 22 of the Income-tax Act, 1922.

(a) *To be completed in the case of all persons engaged in a business, profession or vocation. In the case of a firm this section should be completed on the firm's return and not on the individual partners' returns*

Name in which the business, profession or vocation is carried on, or, in the case of a firm, the firm's name

Principal place of the business, profession or vocation

Location and style of each branch

1

2

3

(b) *To be completed in the case of firms only*

Name of each partner	Address	Extent of share including interest on capital, salary, commission or other remuneration, if any (Give details)

(c) *To be completed in cases where the assessee is a partner in a firm or firms*

Name and address of the firm	Name of each partner including the assessee	Address of each partner	Share of each partner including interest on capital, salary, commission or other remuneration, if any (Give details)

## PART IV.

## Particulars of income from Business, Profession or Vocation

(1) In the case of a firm this part is to be completed in the firm's return and not in the partners' individual returns

(2) If the accounts are kept on the mercantile accountancy or book profit system a copy of the Profit and Loss Account and Balance Sheet must be attached to this Return. If the accounts are kept on any other system, the name or description of the system is to be stated and a copy of any statement which corresponds to the Profit and Loss Account in the mercantile accountancy system must be attached to this Return. In the case of a company a copy of the auditor's report and certificate must also be attached

PROFIT OR LOSS AS PER PROFIT AND LOSS ACCOUNT (OR STATEMENT CORRESPONDING TO THE PROFIT AND LOSS ACCOUNT) FOR THE YEAR ENDED 19 Add (Deduct if the above figure is a loss)— Any profits or gains not included in arriving at the above figure of profit	Rs	Rs
Reserve for Bad Debts		
Sums carried to reserve for provident or other funds		
Interest credited to reserves or other funds		
Expenditure of the nature of charity or presents		
Expenditure of the nature of capital		
Income tax or Super tax		
Drawings of proprietor or partners		
Salaries and commission paid or credited to the proprietor or partners [See note 17 (a)]		
Interest allowed to proprietor or partners on capital or loan accounts [See note 17 (a)]		
Rental value of the property owned and occupied		
Cost of additions to or alterations, extensions or improvements to any of the assets of the business		
Losses sustained in former years and charged in arriving at the figure of profit (or loss) shown above		
Depreciation of any of the assets of the business		
Private or personal expenses		
Any other expenditure not incurred wholly and exclusively for the purpose of the business, profession or vocation (Give details)		
Any other expenditure which is not allowable under the provisions of Section 10 of the Income tax Act, 1922 [See note 17 (b)] (Give details)		

*Deduct—*

Any profit or gains, capital sums or other items credited in arriving at the above figure of profit which are not taxable or upon which tax has already been paid (Give details)	Rs	Rs
Interest on securities tax-free		
Depreciation allowable as shown in Part V of this Return [See note 17 (c)]		
Any other allowable expense which has not been charged in arriving at the above figure of profit (Give details)		
<i>Net profit</i> (or loss—See note 9) carried to Part I of this Return		

*N B* —The above particulars should be given for each separate and distinct business, profession or vocation

[See note 17 (c) ]

## PART V—DEPRECIATION

Statement of particulars prescribed under proviso (a) of section 10 (2) (vi) of the Income-tax Act, 1922, and of the amount of depreciation allowable

1	2	3	4	5	6	7	8	9
Description of buildings, machinery, plant or furniture	Original cost	Capital expenditure during the year for additions, improvements and extensions	Date from which the additions, etc., referred to in col 3 are used for the purposes of the business, profession or vocation	Particulars (including original cost, depreciation allowed and value realised by sale, or scrap value) of obsolete machinery, plant or furniture sold or discarded during the year with dates on which first brought into use and sold or discarded	Amount on which depreciation is now allowable	Prescribed rate per cent	Depreciation allowable	Remarks

## PART VI—INCOME FROM PROPERTY

Serial Number	Name of village or town where the property is situated	Name of Street and Number of property	Where the property is situated in a Municipality, the name of the person in whose name the property stands in the municipal registers	Whether the property is occupied by the owner or let	If you are a part owner of the property state the amount of your share and the names of the other part owners and their shares	Annual Municipal valuation of the property	Full annual rent payable by the tenant if the property is let	Tenant's burdens (including rates) borne by owner (Give details)	Owner's burdens (including rates) borne by tenants (Give details)	Annual letting value after adjusting for cols 9 and 10	One sixth of the annual letting value as in col 11	Premium paid to insure the property against damage or destruction	Interest on a mortgage or charge, or any annual charge on the property	Ground rent paid for the property	Land revenue paid for the property	Collection charges paid	Net annual value after deducting cols 12 to 17 from col 11	Period during which the property remained vacant	Amount claimed on account of the property remaining vacant	Net amount assessable (col 18 less col 20)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

Total Income from Property carried to Part I of this Return

I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IV, V and VI of this Return is correct and complete, that the amounts of total income and total world income and other particulars shown are truly stated and relate to the year ended

and that no other income accrued or arose or was received by

me  
the firm  
the family  
the association  
the company  
the local authority

during the said year and that

I  
the firm  
the family  
the association  
the company  
the local authority

had during the said year no other sources of income

Date

Signature

Status

NOTE —The alternatives which are not required in the declaration should be scored out. The signature should be that of the assessee himself if he is an individual, that of a member in the case of a firm or other association of persons, manager or a karta or any adult member in the case of Hindu undivided family, and of the principal officer in the case of a company or a local authority. The signatory should satisfy himself that the return is correct and complete in every respect before signing the verification.

### Notes for guidance in filling up Return Form No. I T 11

*Important changes in the Act\* have been made by the Income-tax (Amendment) Act, 1939 and assesseees are advised to read carefully such of these notes as are appropriate to their cases*

1 On the publication of the notices referred to in Section 22 (1) of the Act every person or association of persons whose total income exceeds the maximum amount not chargeable with Income tax is required to make a return of his total income and his total world income whether or not he has been served with an individual notice under Section 22 (2) of that Act. For the year commencing on 1st April 1939, the maximum amount which is not chargeable to income-tax is as follows —

In the case of—

- |  |       |
|--|-------|
| (i) Any Court of Wards, Administrator General, Official Trustee, any Receiver or Manager appointed under any order of a Court, or any trustee or trustees appointed under a duly executed trust deed, where the income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown | Rs    |
| (ii) Any company or local authority  | Nil   |
| (iii) Any person, being a British subject or the subject of a State in India or Burma, who is not resident in British India and whose total world income exceeds Rs 2,000  | Nil   |
| (iv) Any other non-resident person   | Nil   |
| (v) Any other individual, Hindu Undivided family, firm or association of persons   | 2,000 |

\*Note —In these Notes "the Act" means the Income tax Act, 1922



Total income is the total income chargeable under the Act, and total world income includes all income wherever accruing or arising unless exempted under Section 4 (3) of the Act

2 "*Previous year*" means for each separate source of income—

(a) the year ended on 31st March prior to the income-tax year, or, at the option of the assessee, the year ended on the date (prior to the 31st March) to which his accounts have been made up, or

(b) the year prescribed by the Central Board of Revenue for any case or class of cases

Certain conditions attach to the exercise of the option referred to in (a) and certain further conditions govern the determination of "previous year" in respect of a business, profession or vocation newly set up, and these are shown in Clause 11 of Section 2 of the Act

For each source of income for which the previous year does not end on the 31st March, the last date of the previous year should be shown

3 *Sources of income*—The following income must be included in your return under the appropriate head—

(a) *So much of the income of your wife* as arises directly or indirectly from—

- (i) her membership in a firm of which you are a partner,
- (ii) assets transferred directly or indirectly to her by you otherwise than for adequate consideration or in connection with an agreement to live apart

(b) *So much of the income of your minor child* as arises from—

- (i) his (or her) admission to the benefits of partnership in a firm of which you are a partner,
- (ii) assets transferred directly to him (or her) by you otherwise than for adequate consideration unless she is a married daughter

(c) *So much of the income of any person or association of persons* as arises from assets transferred to the person or association otherwise than for adequate consideration for the benefit of your wife or minor child or both

(d) *All income arising to any person* by virtue of a settlement or disposition whether revocable or not and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939, from assets which remain your property, or by virtue of a revocable transfer of assets

[Section 16 (1) of the Act contains definitions of "revocable", and "Settlement or disposition", and sets out also certain exceptions]

(e) *Income from assets transferred to persons abroad* for the purpose of avoiding tax in the circumstances set out in Section 44D

(f) *Income from securities, stocks or shares* which have been sold before the date of payment of the interests or dividend and re-purchased subsequently in the circumstances set out in Sections 44E and 44F

4 *An individual is "resident" in British India* if he—

- (i) is in British India in that year for a period amounting in all to one hundred and eighty-two days or more, or
- (ii) maintains or has maintained for him a dwelling place in British India for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in British India for any time in that year, or
- (iii) having within the four years preceding that year been in British India for a period or for periods amounting in all to three hundred and sixty-five days or more, is in British India for any time in that year otherwise than on an occasional or casual visit,

A *Hindu undivided family, firm or other association of persons* is resident in British India unless the control and management of its affairs is situated wholly without British India, and

A *company* is resident in British India in any year,

- (a) if the control and management of its affairs is situated wholly in British India in that year, or
- (b) if its income arising in British India in that year exceeds its income arising without British India in that year

(a) *An individual is "not ordinarily resident" in British India* in any year if he has not been resident in British India in nine out of the ten years preceding that year or if he has not during the seven years preceding that year been in British India for a period of, or for periods amounting in all to, more than two years,

(b) *A Hindu undivided family is deemed to be "ordinarily resident" in British India* if its manager is ordinarily resident in British India,

(c) *A company, firm or other association of persons is "ordinarily resident" in British India* if it is resident in British India

5 *Tax already charged or deducted at source*—In this column only British Indian tax should be entered. Super-tax deducted at source should be shown separately (unless, in the case of a salaried person, the assessee is unaware of the allocation between Income-tax and Super-tax). In the case of a dividend from a Company the tax to be entered is the net tax appropriate to that part of the dividend which has borne Income-tax and should be calculated at the rate in force for companies for the year in which the dividend was paid. Where this figure of tax is not known, it should be estimated and the word "estimated" written below the figure. The correct figure will then be computed in the Income-tax office. If any tax deducted

at source is in excess of the amount on which you are chargeable, the excess will be deducted from any other tax payable by you, provided that certificates of tax deducted are attached to this Return

6 "*Salaries*" includes wages, pensions (if payable anywhere in India including an Indian State), annuities, gratuities, fees, commission, allowances, perquisites, value of rent-free quarters and profits received in lieu of or in addition to salary or wages. The full amount should be entered and not the net amount after deducting income-tax, your provident fund contributions, etc

Prior to the Indian Income-tax (Amendment) Act, 1939, the basis was the amount of salary *received* in the previous year. It is now the amount actually received or the amount due *whether paid or not*. An advance of income is to be treated as salary on the date on which the advance is received.

If by the conditions of your employment you are required to spend any sum out of your remuneration *wholly, necessarily and exclusively in the performance of your duties* you may claim a deduction for such a sum and should give particulars. Travelling expenses from your house to your place of employment are not allowable.

A payment received by an employee from an employer or former employer or from a provident or other fund is taxable to the extent to which it does not consist of the return of your own contributions or interest thereon. Payments made solely as compensation for loss of employment and certain payments from provident funds to which the Provident Funds Act, 1925, applies, from a recognised provident fund or from an approved superannuation fund are exempted.

7 *Interest on Securities* means interest on promissory notes or bonds issued by the Government of India or any Provincial Government, or the interest on debentures or other securities issued by or on behalf of a local authority or company. The gross amount before deduction of income-tax should be entered.

Entries under this head should be accompanied by the certificate issued by the person paying the interest under Section 18 (9) of the Act.

Deductions are allowable in respect of—

- (a) commission charged by a banker for collecting the interest,
- (b) interest payable on money borrowed for the purpose of investment in the securities except certain interest payable to persons abroad from which tax has not been deducted (see Section 8 of the Act for details). Full particulars (in a separate statement if necessary) should be given of any deduction claimed.

8 *Property*—The tax is payable under this head in respect of the *bona fide* annual value of all buildings or lands appurtenant thereto, of which you are the owner, other than such portions of such buildings and lands as you occupy for the purpose of your business, profession or vocation.

9 *Business, Profession or Vocation* — You should complete item 4 (a) of Part I, and Parts IV and V of the Return in respect of any business, profession or vocation if you are the sole proprietor, or if you are making the Return on behalf of your firm. If you are partner in a registered firm, or if your firm has applied for registration, you must complete item 4 (b) of Part I, and if you are a partner in an unregistered firm you must complete item 4 (c) of Part I.

For the purpose of completing items 4 (b) and 4 (c) of Part I, the share of a partner is to be determined as follows —

- (i) *The share is the share to which he was actually entitled during the previous year and not the share to which he was entitled on the date on which the assessment is to be made.*
- (ii) it includes all interest (whether on loan or capital account and whether actually paid or not) and all salary commission or other remuneration paid, payable or credited to him.

*Losses* are to be computed in like manner as profits, and the balance of any loss made in the previous year for assessment for the year 1939-40, which cannot be set off wholly against other income of the same year, can be carried forward and set against the profits of the same business, profession or vocation of the following year.

*Local authorities* — The income of local authorities which is chargeable to Income-tax is the profits and gains from a trade or business carried on by those authorities other than income arising from the supply of a commodity or service within its own jurisdictional area.

10 *Dividends from companies* — The gross amount should be entered after adding to the net sum received Income-tax computed as explained in Note 5 above. Where the exact tax is not known, the estimated tax should be added and the figure of net dividend put in Column 1 followed by the word "net".

11 (a) *Agricultural income* from land not paying land revenue or local rates to an authority in British India, and all agricultural income arising abroad (including Indian States and Burma) should be included under this head.

(b) *Remittances received by a wife resident in British India from her non-resident husband* are deemed to be income accruing in British India and must be included in her return if they are not paid out of income included in her husband's total income.

12 *Non-residents* — Income-tax is payable by a non-resident on the total of Section A. If he is a British subject or the subject of a State in India or Burma the Income-tax is computed by reference to the average of rates appropriate to the total of Sections A and C. The income of other non-residents is chargeable at the full company rate. The income of all non-residents is chargeable to Super-tax on the total of Section A at the average of the rates appropriate to the total of Sections A and C. A dividend paid without British India is deemed to be income accruing and arising

in British India to the extent to which it has been paid out of profits subjected to Income-tax in British India

13 *For the Income-tax year 1939-40 only* tax is not chargeable in respect of both the income accruing or arising outside India in the previous year and the income brought into British India during that year out of income accruing or arising in earlier years but only in respect of the greater of these two amounts. If the latter sum is the greater, Section B (2) should be marked "covered by Section C", and if the former is the greater Section C should be marked "covered by Section B (2)"

14 Sums entered in Part II cannot be deducted from total income, but, subject to the limits laid down in the Act, a deduction will be made in respect of such sums from the Income-tax payable at the average rate for the total income. No deduction from Super-tax is given in respect of these sums, except in certain special cases of members of unregistered firms and other association of persons as provided for in the second proviso to Section 55

15 The proviso to Section 7 (1) of the Act applies to sums deducted in accordance with the conditions of service for the purpose of securing a deferred annuity or of making provision for the employee's wife or children

16 Details of the amounts to be entered in respect of a recognised Provident Fund or approved Superannuation Fund should be obtained from the trustees of the fund or from your employer

17 *Part IV*—(a) In computing the profits or gains of a partnership all sums paid or credited to a partner must be disallowed. These sums will be taken into account in allocating the gross income of the business between the partners to ascertain the individual share of each partner. All sums of interest, salary or commission will thus be included in the partner's share of the firm's income and will not be again assessed on that partner as interest, salary or commission respectively

(b) Attention is particularly drawn to the provisions of Section 10 (2) (ii) and Section 10 (4) (a) of the Act which prohibits the deduction of any payment of interest chargeable under the Act which is payable without British India except interest on which tax has been paid or from which tax has been deducted, or in respect of which there is an agent who may be assessed under Section 43, or any payment chargeable under the head "Salaries" if it is payable without British India and tax has not been deducted. An exception is made in the case of interest on a loan issued for public subscription before 1st April 1938. These provisions do not apply to interest or salary which is not chargeable to income-tax under the Act (i.e., interest on money borrowed abroad from a non-resident and not brought into British India in any form whatever, or salary for services rendered wholly abroad by a non-resident)

(c) *Depreciation*—The method of calculating depreciation on the written-down value basis instead of on the basis of the cost of the assets does not come into force for the assessment for the year 1939-40 but will come into force from the assessment for 1940-41

18 *General Directions*—

- (a) The form must be filled in and signed in ink. Losses may be shown in red ink.
  - (b) Figures only are to be inserted in columns (2) and (3) of Part I and should not be modified by words such as “about” or “approximately”,—except as stated in Note 5. The word ‘nil’ must be entered in column (2) in Part I against each source from which you did not derive any income.
  - (c) If you spoil this form you should ask your Income-tax Officer for another. Erasures should not be made. You should sign your name in full against any alteration.
-

Form of return of particulars to be furnished under Section 38 of the Indian Income-tax Act, 1922 (see paragraph 4 of notice).

(a) To be filled up in the case of *firms* only If this information is already given in Part III of the Return under section 22 of the Indian Income-tax Act, 1922, write " See Part III " in this section

Firm's Name

Address

Names of Partners	Addresses

Date

Representative's Signature

Designation

(b) To be filled up in the case of *Hindu undivided families* only

Name of family

Address

Serial No	Names of adult male members of family	Address
1	(Manager or karta)	
2		
3		
4		
5		
6		

Date

Representative's Signature

Designation

(c) To be filled up by Trustees, Guardians or Agents only

Names and addresses of persons for whom the assessee is the trustee, guardian or agent		Whether Trustee, Guardian or Agent
Names	Addresses	

*Signature*

*Designation*

*Date*

*Address*

(d) Statement of the names and addresses of all persons to whom assessee has paid in the previous year rent, interest, commission, royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments

Serial Number	Name and Address of the person to whom the payment was made	Nature of payment	Amount paid	Date of payment	Whether paid in cash or by book adjustment

III Rule 19 shall be re-numbered as sub-rule (1) of that rule, and after the sub-rule as so numbered the following sub-rule shall be inserted, namely —

“(2) The declaration appended to the form prescribed by sub-rule (1) shall be signed—

(a) in the case of an individual by the individual himself,

(b) in the case of a Hindu undivided family by the Manager or Karta,

(c) in the case of a company or local authority by the principal officer,

(d) in the case of a firm by a partner, and

(e) in the case of any other association by a member of the association ”



**19A** Notwithstanding anything contained in Rule 19 the return of total income, in respect of any income, profits or gains liable to be assessed in any year ending before the 1st April 1939 shall—

- (i) in the case of individuals, firms, Hindu undivided families and other associations of persons, but not companies, be in Form A annexed to this notification, and
- (ii) in the case of companies be in the Form B annexed to this notification

### Form A

## FORM OF RETURN OF TOTAL INCOME FOR INDIVIDUALS, FIRMS, HINDU UNDIVIDED FAMILIES AND OTHER ASSOCIATIONS OF INDIVIDUALS.

Income-tax year 19 -19

Name of assessee \_\_\_\_\_

Designation \_\_\_\_\_

Address \_\_\_\_\_

### Statement of total Income during the previous year

1	2 Amount of profits or gains or income during the pre- vious year	3	
Sources of income		Tax already charged on the income	
	Rs	Rs	A
1 Salaries (including wages, annuity, pension, gratuity, fees, commission, allowances, perquisites, including rent free quarters) or profits received in lieu of, or in addition to, salary or wages [See note (1)]			
1A The contributions made by an employer to the accounts in a recognised provident fund of the person making the return			
1B The interest accruing to the account mentioned in 1A which is not exempt from income tax [section 58F (2)]			
1C Interest accruing to the account mentioned in 1A which is exempt from income tax [section 58F(2)]			
2 Interest on securities (including debentures) already taxed [See note (2)]			
3 Interest on securities of the Government of India or of local Governments declared to be income tax free „ (3)			
4 Property as shown in detail in Schedule A „ (4)			
5 Business, trade, commerce, manufacture or dealing in property, shares or securities (details as in note 5) „ (5)			
6 Profession „ (6)			
7 Dividends from companies (net) „ (7)			

1  Sources of income	2  Amount of profits or gains or income during the previous year	3  Tax already charged on the income	
	Rs	Rs	A
8 Interest on mortgages, loans, fixed deposits, current accounts, etc., not being income from business			
9 Ground rent			
9A Income of wife, minor child and association of individuals [Section 16 (3)—See note (10)]			
10 Any source other than those mentioned above including any income earned in partnership with others [See note (8)]			
Total			
Deductions claimed—			
(a) on account of insurance premia			
(b) on account of contributions to a provident fund to which the Provident Funds Act applies			
(c) on account of contributions to a recognised provident fund [section 58A (a)]			
(d) on account of interest on contributions to a recognised provident fund and accumulations thereof which is exempt from income tax [section 58F (2)]			
(e) others			

I declare that to the best of my knowledge and belief the information given in the above statement is correct and complete, that the amounts of income shown are truly stated and relate to the year ended \_\_\_\_\_ and that no

other income accrued or arose or was received by  $\frac{\text{me}}{\text{the firm}}$  during the said  $\frac{\text{the family}}{\text{the association}}$

year and that  $\frac{\text{I}}{\text{the firm}}$  had during the said year no other sources of  $\frac{\text{the family}}{\text{the association}}$  income

Date \_\_\_\_\_ Signature \_\_\_\_\_

N B —(a) Income accruing to you outside British India received in British India is liable to taxation, and must be entered by you in the form

(b) All income from whatever source derived must be entered in the form including income received by you as a partner of a firm

NOTE 1 —In column 2 should be shown the gross amount of salary and not the net amount after deductions on account of income-tax, provident funds, etc

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NOTE 2 —“Interest on securities” means the interest on promissory notes or bonds issued by the Government of India or a local Government, or the interest on debentures, or other securities for money issued by or on behalf of a local authority or company. Where income-tax has been deducted from the interest, or where the interest has been paid income-tax free, the amount of tax so deducted or paid should be added to the amount of interest actually received and the gross amount so arrived at should be entered in column 2 of the statement. The term “interest on securities” does not include interest on fixed deposits or mortgages or other loans, which have to be shown under heading 8

The interest on securities of the Government of India or of local Governments declared to be income-tax free should be shown under head 3. Those which are not declared to be income-tax free should be included under this head.

Entries under this head must be supported by the certificate issued by the person or company paying the interest under section 18 (9) of the Act

---

NOTE 3 —(a) The income-tax payable on the interest receivable on a security of a local Government issued income-tax free is payable by the local Government and not by the holder of the security

(b) Only the interest on securities of the Government of India or of a local Government declared to be income-tax free should be entered against this head. Such interest will not be charged to income-tax, but it must be included in the statement of total income in order to ascertain the rate of income-tax chargeable on other income. *It is chargeable to super-tax*

(c) Particulars of any interest on securities issued by other authorities and stated to be free of income-tax should be entered against head 2, as income-tax on such interest is actually paid by these authorities on behalf of the recipients

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NOTE 4 —The tax is payable under this head in respect of the *bona fide* annual value of any buildings or lands appurtenant thereto, of which you are the owner, other than such portions of such buildings and lands as you may occupy for the purpose of your business

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NOTE 5 —(a) Where you keep your accounts on the mercantile accountancy or book profits system, you must file a return in the following form —

## Income, profits or gains from business, trade, commerce

	Rs
Income, profits or gains as per Profit and Loss Account for the year ended———19	
<i>Add</i> any amount debited in the accounts in respect of—	
1 Reserve for bad debts	
2 Sums carried to reserve for provident or other funds	
3 Expenditure of the nature of charity or presents	
4 Expenditure of the nature of capital	
5 Income tax or super-tax	
6 Drawings or salary of proprietor, drawings of partners and salary of partners	
7 Rental value of property owned and occupied	
8 Cost of additions to or alterations, extensions, improvements of, any of the assets of the business	
9 Interest on the proprietor's or partner's capital including interest on reserve or other funds	
10 Losses sustained in former years	
11 Losses recoverable under an insurance or contract of indemnity	
12 Depreciation of any of the assets of the business	
13 Private or personal expenses and expenses not incurred solely for the purpose of earning the profits	
TOTAL .	
<i>Deduct</i> —Any profits included in the account already charged to Indian income-tax and the interest on securities of the Government of India or of local Governments declared to be income tax free	
Balance	

(Signature of the person making the return )

(Date)———19

State here amount of salary paid to a *partner* and *not* added back on the ground that it is not an appropriation of profits

Rs

(b) Where you do not keep your accounts on the mercantile accountancy or book profits system, but on a cash basis you must file a statement showing how you arrive at the taxable profits, *i e* , showing details of the gross receipts and of the expenditure you

propose to set against those receipts specifying separately salary paid to partners and deducted from gross receipts as not being an appropriation of profits. No deductions are permissible on account of—

- (i) Property owned and occupied by the owner of a business for the purposes of a business,
- (ii) Additions to, or alterations, extensions, or improvements of, any of the assets of the business,
- (iii) Interest on the capital of the proprietors or partners of the business,
- (iv) Bad debts not actually written off in the accounts,
- (v) Losses sustained in previous years,
- (vi) Reserves of any kind,
- (vii) Sums paid on account of the income-tax or super-tax or any tax levied by a local authority other than local rates or municipal taxes in respect of the portion of the premises used for the purpose of the business,
- (viii) Any expenditure of the nature of charity or a present,
- (ix) Any expenditure of the nature of capital,
- (x) Any loss recoverable under an insurance or a contract of indemnity,
- (xi) Depreciation of any kind other than that specified in the Act,
- (xii) Drawings or salary of the proprietor, drawings of partners and salary of partners if it be an appropriation of profits,
- (xiii) Private or personal expenses of the assessee,
- (xiv) Any expenditure of any kind which is not incurred solely for the purpose of earning the profits.

If you have included any such sums in your expenditure in your books, you must exclude them from the expenditure permissible for the purpose of arriving at your taxable profits.

(c) You are also required to attach a statement showing the sums charged in your accounts under the provisions of section 58K (2)

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NOTE 6 —The income, profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred *solely* for the purpose of such profession or vocation, provided that no allowance is made on account of any of your personal expenses. Professional fees received by you in any part of India (whether within British India or not) must be included by you in your receipts.

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NOTE 7 —Income-tax chargeable on the profits of companies is paid by the companies, so that the dividends received by the share-

holders represent the net amount remaining after any income-tax due by the company has been paid. This amount should be entered in column 2 of the statement. The proportionate tax will be added in the Income-tax Office.

*If the rate of tax applicable to your total income is less than the rate of tax applicable to the profits or gains of the company at the time of the declaration of such dividends, you may, by attaching the company's certificate received with the dividends, have the excess collected on your dividends from the company set against the tax payable by you on your other income instead of having to apply separately for a refund.*

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NOTE 8 —Agricultural income from land not paying land revenue or local rates to an authority in British India should be included under this head, or under income from business according to circumstances.

NOTE 9 —Deductions from total income can only be made for insurance premia in respect of insurance on your own life or on the life of your wife, or in respect of a contract for a deferred annuity on your own life or on the life of your wife. No deduction is permissible in the case of any other form of insurance except in the case of Hindu undivided families where deductions are permissible on account of premia paid in respect of insurance on the life of any male member of the family or of his wife. The original receipt or the certificate of the insurance company to which the premium was paid must be attached to the return.

---

NOTE 10 —(a) Under Head 9-A you should enter so much of the income of your wife or minor child as arose directly or indirectly—

(i) from the membership of your wife in a firm of which you are a partner,

(ii) from the admission of your minor child to the benefits of partnership in a firm of which you are a partner,

(iii) from any assets transferred by you directly or indirectly to your wife otherwise than for adequate consideration or in connection with an agreement to live apart, and

(iv) from any assets transferred by you directly or indirectly to your minor child, not being a married daughter.

(b) Under this head you should also enter so much of the income of any association of individuals consisting of yourself and your wife as arises from any assets transferred by you to such association.

## Schedule A

Serial No	Name of village or town where the property is situated	Name of Mohalla or Street and number of property	In the case of municipalities the name of the person in whose name the property stands in the municipal registers	Whether the property is occupied by owner or is let	Annual letting value of the property	Period during which the property remained vacant	Amount of rent actually received for the property, if let
1	2	3	4	5	6	6A	7

## Deductions

One sixth of the annual letting value shown in column 6	Premium paid to insure the property against damage or destruction	Interest on a mortgage or charge on the property	Ground rent paid for the property	Land revenue paid for the property	Collection charges paid	Amount claimed on account of property remaining vacant	Total of columns 8 to 13A	Net amount to be carried over to the front of the form.
8	9	10	11	12	13	13A	14	15

## Form B

## FORM OF RETURN OF TOTAL INCOME OF A COMPANY.

Income-tax year 19 -19

Name of Company \_\_\_\_\_

Its principal place of business \_\_\_\_\_

## Total income of the Company

	Rs	A
Income, profits or gains as per profit and loss account for the year ended _____ 19		
Add any amount debited in the accounts in respect of—		
1 Reserve for bad debts		
2 Sums carried to reserve for provident or other funds		
3 Expenditure of the nature of charity or presents		
4 Expenditure of the nature of capital		
5 Income-tax or super-tax		
6 Rental value of property owned and occupied		
7 Cost of additions to, or alterations, extensions, improvements of, any of the assets of the business		
8 Interest on reserve or other funds		
9 Losses sustained in former years		
10 Losses recoverable under an insurance or contract of an indemnity		
11 Depreciation of any of the assets of the company		
12 Expenses not incurred solely for the purpose of earning the profits		
TOTAL		
Deduct—Any profits or income included in the accounts on account of—		
(a) Interest (net amount) on securities taxed at source		
(b) Interest on securities tax-free		
(c) Dividends (net amount) from companies taxed in British India		
*(d) Other items already taxed at source (specify details)		
Balance		

\* If any other deduction is to be claimed, please give particulars thereof in a separate letter to be forwarded with the return

If the Company owns any property not occupied for the purposes of the business, a statement in the form prescribed in the Schedule overleaf should be attached with particulars of the credit and debit on account of such property entered in the accounts

## Declaration

I, the \_\_\_\_\_ [Secretary,  
etc., see section 2 (12) of the Act] of the  
(name of Company), declare that the information against each head  
in this return is correctly given as shown in the books of the Company  
as also in the accounts which have been duly audited by the auditors

[P T O



of the Company and which have been adopted by the shareholders of the Company

Signature  
Designation

Date

19

(2) The company shall also attach to the return a statement showing the sums charged in the accounts under the provisions of section 58 K (2)

N B —This return must be accompanied by a copy of the profit and loss account referred to above

*Schedule referred to overleaf*

Serial number	Name of village or town where the property is situated	Name of mohalla or street and number of property, if any	In the case of municipalities the name of the person in whose name the property stands in the municipal registers	Whether the property is occupied by owner or is let	Annual letting value of the property	Period during which the property remained vacant	Amount of rent actually received for the property, if let
1	2	3	4	5	6	6A	7

**Deductions**

One sixth of the annual letting value shown in column 6	Premium paid to insure the property against damage or destruction	Interest paid on a mortgage or charge on the property	Ground rent paid for the property	Land revenue paid for the property	Collection charges paid	Amount claimed on account of property remaining vacant	Total of columns 8 to 13A	Net amount
8	9	10	11	12	13	13A	14	15

20 The Notice of Demand under section 29 shall be in the following form —

## INCOME-TAX

## Notice of Demand under Section 29 of the Income-tax Act, 1922.

To

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Take notice that for the assessment year \_\_\_\_\_ the sum of Rs \_\_\_\_\_ as specified overleaf, has been determined to be payable by you

2 Whereas you have not paid the sum of \_\_\_\_\_ for the year \_\_\_\_\_ on the prescribed date \_\_\_\_\_ in accordance with the Notice of Demand served on you on \_\_\_\_\_ you are hereby informed that a penalty of Rs \_\_\_\_\_ has been imposed upon you under section 46 (1) of the Indian Income-tax Act, 1922

3 You are required to pay the amount on or before the \_\_\_\_\_ to

Treasury Officer,

Sub Treasury Officer,

Agent, Imperial Bank of India,

Governor, Reserve Bank of India,

at \_\_\_\_\_

when \_\_\_\_\_

you will be granted a receipt A chalan is enclosed for the purpose

4 If you do not pay the amount on or before the date specified above you will be liable under section 46(1) to a penalty which may be as great as the tax due from you

5 You are further warned that unless the total amount due including this penalty, is paid on or before \_\_\_\_\_ 19 \_\_\_\_\_, a further penalty will be imposed on you (and a warrant of distress will be issued for the recovery of the whole amount due with cost)

6 The assessment has been made under sub-section (4) of section 23 of the Indian Income-tax Act, 1922, because you failed to make a return of your income under section 22 (2), to comply to comply

with a notice under sub section (4) of section 22, but if you were prevented with a notice under sub section (2) of section 23, by sufficient cause from making the return or did not receive the notice(s) aforesaid, or had not a reasonable opportunity to comply, or were prevented by sufficient cause from complying, with the terms of the notice(s) you may apply to me, within one month from the receipt of this notice, under section 27, to cancel the assessment and proceed to make a fresh assessment

7. If you intend to appeal against the assessment you may present an appeal under sub-section (1) of section 31 of the Indian Income-tax Act, 1922, to the Appellate Assistant Commissioner of Income-tax at \_\_\_\_\_ within 30 days of the receipt of the notice, in the form prescribed under sub-section (3) of section 36 duly attested and verified as laid down in that form but no appeal will be entertained if an order under section 16(1) under the said Act is issued.

Income-tax Officer

Address \_\_\_\_\_

Dated \_\_\_\_\_ 19\_\_\_\_

Place \_\_\_\_\_

---

Delete inappropriate portions and word

# ASSESSMENT FORM

## ASSESSMENT FOR 19 -19 UNDER SECTION OF THE INCOME-TAX ACT 1922

Name of assessee District or Area  
 Status Number in General Index  
 Address Number of Miscellaneous Record

Detailed sources of income	Amount of income	Tax already deducted or otherwise paid at source			
		Income-tax		Super-tax	
	Rs	Rs	As	Rs	As
<i>Total income —</i>					
Salaries					
Interest on securities					
Property					
Business, Profession or Vocation					
Other sources (In the case of dividends the gross amount liable to tax and the tax appropriate should be shown)					
1					
2					
3					
Total income					
Adjustments to total income to arrive at total world income (*) (give details)					
Total world income (*)					
Gross income tax and super tax chargeable on Total income					
Gross Income tax and super-tax computed on Total World Income (*)					
Average rate of income tax paise in the rupee					
Sums included in total income in respect of which income-tax is not payable —	Rs				
(a) Under section 7 (I) or on account of a Provident Fund to which the Provident Funds Act, 1925, applies					
(b) On account of recognised Provident and Superannuation Funds					
(c) On account of Insurance premia					
(d) Share from association of persons or from an unregistered firm the profits of which have been assessed to income tax					
(e) Interest from tax free securities of the Central Government or of a Provincial Government					
Total amount upon which relief is due, and income-tax thereon					
Deduct income tax and super-tax deducted or otherwise paid at source as above					
Double income-tax relief					
Net amount of income-tax and super-tax payable					
Penalties under sections 25(2), 28, 44E, 44F and 46(1) (†)					

TOTAL SUM  $\frac{\text{Payable}^\dagger}{\text{Refundable}}$  (IN FIGURES AS WELL AS IN WORDS)  
 Rs as (figures), Rupees annas (words)  
 Date

\* To be completed in the case of non residents only

† Delete inappropriate words or figures

21 An appeal under section 30 shall, in the case of an appeal against a refusal of an Income-tax Officer to make a fresh assessment under section 27, be in Form A, in the case of an appeal against an order of an Income-tax Officer under section 25(2) in Form C, in the case of an appeal against the order of an Income-tax Officer under section 25-A in Form C (1), in the case of an appeal against an order of an Income-tax Officer under section 28 in Form D, in the case of an appeal against a refusal of an Income-tax Officer to register a firm under section 26-A in Form D-1, in the case of an appeal against an order of an Income tax Officer under section 23-A in Form F, in the case of an appeal against an order of an Income-tax Officer under section 26(2) in Form G in the case of an appeal against an order of an Income-tax Officer under section 44 E(6) or 44(5) in Form H, in the case of an appeal against an order of an Income-tax Officer under section 46(1) in Form I, in the case of an appeal against an order under section 48, 49 or 49 I' refusing to grant a refund in Form J and in other cases in Form B

## FORM A

Form of appeal against an order refusing to reopen an assessment  
under section 27.

To

The Appellate Assistant Commissioner of

The day of 19  
The petition of of post

office, District sheweth as follows —

1 Under the Indian Income-tax Act, 1922, your petitioner's income has been computed at Rs \_\_\_\_\_ for the year commencing loss the 1st day of April 19 \_\_\_\_\_

2 Your petitioner was prevented by sufficient cause from making the return required by section 22(2) or did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the notice under sub-section (4) of section 22 or sub-section (2) of section 23, as more particularly specified in the statement attached

3 Your petitioner therefore presented a petition to the Income-tax Officer under section 27, requesting him to cancel the assessment. This petition, the Income-tax Officer, by his order, dated of which a copy is attached, has rejected.

4 Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and that he may be directed to make a fresh assessment in accordance with the law.

*Signed*

STATEMENT OF FACTS

Form of verification

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief

Signed

FORM B

Form of appeal against assessment to Income-tax.

To

The Appellate Assistant Commissioner of

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,

District sheweth as follows —

1 Under the Indian Income-tax Act, 1922, for the year commencing the 1st day of April 19 \_\_\_\_\_,

your petitioner's total income has been assessed at

your petitioner's total world income has been assessed at

the amount of tax payable by your petitioner has been determined at

the amount of loss incurred by your petitioner has been computed at

your petitioner has been granted a refund of

+2 The notice of demand  
intimation of the amount of loss  
intimation of the order of refund

attached hereto was served upon your petitioner on

+3 During the previous year ending \_\_\_\_\_ your petitioner's

total income was

total world income was

total tax works out at

loss amounted to

refund allowable to your petitioner was

and that during the said previous year your petitioner had no other income

4\* Your petitioner has made a return of his income to the Income tax Officer under section 22, sub-section (1)/(2) of the Act and has complied with all the terms of the notice served on him by the Income-tax Officer under section 23(2) and/or [section 22(4)]

5 Your petitioner therefore prays that

\*he may be assessed accordingly

he may be declared not to be chargeable under the Act

his loss may be determined at

he may be granted a refund of

*Signed*

#### \_\_\_\_\_ GROUNDS OF APPEAL

#### *Form of verification*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief

*Signed*

#### \_\_\_\_\_ FORM C

#### Form of appeal against an order under section 25 (2).

To

The Appellate Assistant Commissioner of Income-tax,

The \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,

Distinct sheweth as follows —

1 Under section 25(2) of the Indian Income-tax Act, 1922, a penalty of Rs \_\_\_\_\_ has been imposed on your petitioner. The notice of demand attached hereto was served upon him on \_\_\_\_\_

2 Your petitioner was prevented by sufficient cause as more particularly explained below from giving notice within the time prescribed by section 25(2) to the Income-tax Officer of the discontinuance of his business, profession or vocation

3 Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs \_\_\_\_\_ upon your petitioner may be set aside

*Signed*

\_\_\_\_\_  
\*N B —Delete the inappropriate words

STATEMENT OF FACTS

*Form of verification*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief

*Signed*

FORM C(1)

**Form of appeal against an Order under Section 25-A.**

To

The Appellate Assistant Commissioner of Income-tax,

The \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office, District, sheweth as follows —

Under section 25-A of the Indian Income-tax Act, 1922, your petitioner/petitioners who belonged to a Hindu Family, hitherto assessed as undivided, claimed before the Income-tax Officer

at the time of assessment that a partition had taken place among the members of the family and that the joint family property had been partitioned among the various members (or group of members) in definite portions and prayed that an order might be passed to this effect as laid down in section 25-A(1) and that an assessment be levied as laid down in section 25-A(2)

2 By his order, dated the \_\_\_\_\_ a copy of which is herewith attached, the Income-tax Officer has refused to pass the order referred to above and make assessments accordingly as laid down in section 25-A(2) Your petitioner/petitioners therefore request(s) that the Income-tax Officer may be directed to pass such an order under section 25-A(1) and to levy an assessment as laid down in section 25-A(2).

*Signed*

\_\_\_\_\_  
GROUNDS OF APPEAL

*Form of verification*

I/We \_\_\_\_\_, the petitioner/petitioners, named in the above petition, do hereby declare that what is stated therein is true to the best of my/our information and belief

*Signed*



## FORM D

## Form of appeal to the Appellate Assistant Commissioner against an Order under Section 28.

To

The Appellate Assistant Commissioner of Income-tax,

The                      day of                      19

The petition of                      of                      post office,  
District, sheweth as follows —

1 Under section 28 of the Indian Income-tax Act, 1922, a penalty of Rs                      has been imposed on your petitioner by the Income-tax Officer. The notice of demand attached hereto was received by your petitioner on

\*2 Your petitioner had reasonable cause for not furnishing the return of his total income which he was required to furnish under sub-section (1) or sub-section (2) of section 22 or section 34, or for not furnishing it within the time allowed and in the manner required by such notice

Your petitioner had reasonable cause for not complying with the notice under sub-section (4) of section 22 or sub-section (2) of section 23

Your petitioner did not conceal the particulars of his income or deliberately furnish inaccurate particulars of such income

3 For the reasons given in the grounds of appeal your petitioner therefore prays that the order of the Income-tax Officer may be set aside

*Signed*

---

GROUND'S OF APPEAL

*Form of verification*

I,                      , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief

*Signed*

---

\* Delete the inappropriate words

FORM D-1

**Form of appeal against an Order refusing to register, a firm under Section 26-A.**

To

The Appellate Assistant Commissioner of Income-tax,

The                      day of                      19

The petition of                      of                      post office,  
District, sheweth as follows —

Under section 26-A of the Indian Income-tax Act, 1922, your petitioner applied to the Income-tax Officer for the registration of the firm

By his order, dated the                      a copy of which is herewith attached, and of which the intimation was received by your petitioner on                      the Income-tax Officer has refused to register the said firm

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and that he may be directed to register the firm

*Signed*

\_\_\_\_\_  
GROUNDS OF APPEAL

*Form of verification*

I,                      , the petitioner, named in the above petition do hereby declare that what is stated therein is true to the best of my information and belief

*Signed*

\_\_\_\_\_  
FORM F

**Form of appeal against an Order under Section 23-A.**

To

The Appellate Assistant Commissioner of Income-tax,

The                      day of                      19

The petition of                      of                      post office,  
District, sheweth as follows —

1 The Income-tax Officer of                      , with the approval of the Inspecting Assistant Commissioner of                      has passed an order dated                      (of which a copy is attached) under

sub-section (1) of Section 23-A of the Indian Income-tax Act, 1922, that the undistributed portion of the assessable income of the company for the year as computed for income-tax purposes shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting held on

2 Your petitioner being of opinion, on the grounds set out below, that the order of the Income-tax Officer should not have been passed prays that the said order may be set aside

*Signed*

---

### STATEMENT OF GROUNDS OF APPEAL

#### *Form of verification*

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the statement of grounds of appeal is true to the best of my information and belief

*Signed*

---

### FORM G

**Form of appeal against an Order under proviso to Sub-section (2) of Section 26.**

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19

The petition of of post office,  
District, sheweth as follows —

1 Under the proviso to sub-section (2) of section 26 of the Indian Income-tax Act, 1922, your petitioner has been held liable in respect of the tax of Rs The Notice of Demand attached hereto was served upon him on

2 As will be seen from the grounds of appeal attached hereto this tax should be recovered from whom your petitioner has succeeded

3 Your petitioner therefore requests that the order of the Income-tax Officer imposing tax of Rs upon your petitioner be set aside

*Signed*

## GROUNDS OF APPEAL

*Form of verification*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief

*Signed*

---

## FORM H

Form of appeal against an Order under Section 44-E (6) or 44-F. (5).

To

The Appellate Assistant Commissioner, of Income-tax,

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

The petition of \_\_\_\_\_ of \_\_\_\_\_ post office,  
District, sheweth as follows —

1 Under section 44  $\frac{E(6)}{F(5)}$  a (further) penalty of Rs \_\_\_\_\_ has been imposed on your petitioner by the Income-tax Officer  
The Notice of Demand attached hereto was served upon him on \_\_\_\_\_

2 As will be seen from the grounds of appeal attached hereto your petitioner had reasonable excuse for failure to comply with the  
notice of particulars required by the Income-tax Officer  
to furnish statement of

3 Your petitioner therefore requests that the order of the Income-tax Officer imposing a (further) penalty of Rs \_\_\_\_\_ upon your petitioner may be set aside

*Signed*

---

## GROUNDS OF APPEAL

*Form of verification*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief

*Signed*

## FORM I

## Form of appeal against an Order under Section 46 (1).

To

The Appellate Assistant Commissioner of Income-tax,

The                      day of                      19

The petition of                      of                      post office  
District, sheweth as follows —

1 Under sub-section (1) of section 46 of the Indian Income-tax Act, 1922, a (further) penalty of Rs                      has been imposed on your petitioner. The Notice of Demand attached hereto was served on him on

2 As will be seen from the grounds of appeal your petitioner had no intention to default

3 The tax due in respect of the assessment for the assessment year                      has already been paid

4 Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs                      upon your petitioner may be set aside

*Signed*


---

 GROUNDS OF APPEAL
*Form of verification*

I,                      , the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief

*Signed*


---

 FORM J

## Form of appeal against an Order refusing to grant a refund under Section 48, 49 or 49-F.

To

The Appellate Assistant Commissioner of Income-tax,

The                      day of                      19

The petition of                      of                      post office,  
District, sheweth as follows —

Your petitioner applied to the Income-tax Officer for a refund under section 48, 49 or 49-F of the Indian Income-tax Act, 1922, of Rs

The Income-tax Officer has by his order, dated the

of which a copy is attached rejected the application  
granted a refund of only Rs

Intimation of this order was received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted

*Signed*

---

#### GROUNDS OF APPEAL

##### *Form of verification*

I, \_\_\_\_\_, the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief

*Signed*

#### 21A. Omitted

22 An appeal under section 32 (2) shall in the case of an appeal against an order of an Appellate Assistant Commissioner under section 28 be in Form E

#### FORM E

To

The Commissioner of Income-tax,

The \_\_\_\_\_ day of \_\_\_\_\_ 19

The petition of \_\_\_\_\_ sheweth as follows —

1 Under section 31(3) of the Indian Income-tax Act, 1922, the Appellate Assistant Commissioner of \_\_\_\_\_ has increased the tax payable by your petitioner from Rs \_\_\_\_\_ to Rs \_\_\_\_\_ .  
penalty

2 Your petitioner prays that the enhancement may be set aside or reduced to Rs \_\_\_\_\_ for the reasons stated below

*Signed*

---

#### GROUNDS OF APPEAL

##### *Form of verification*

I, \_\_\_\_\_, the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief

*Signed*

## 22A. Omitted

23 (1) In the case of income which is partially agricultural income as defined in section 2 and partially income chargeable to income-tax under the head "Business", in determining that part which is chargeable to income-tax the market value of any agricultural produce which has been raised by the assessee or received by him as rent in kind and which has been utilised as raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent in kind

(2) For the purposes of sub-rule (1) "market value" shall be deemed to be —

(a) Where agricultural produce is originally sold in the market in its raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent in kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the year previous to that in which the assessment is made

(b) Where agricultural produce is not ordinarily sold in the market in its raw state, the aggregate of—

(1) the expenses of cultivation,

(2) the land revenue or rent paid for the area in which it was grown, and

(3) such amount as the Income-tax Officer finds, having regard to all the circumstances in each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce

24 Income derived from the sale of tea grown and manufactured by the seller in British India shall be computed as if it were income derived from business, and 40 per cent of such income shall be deemed to be income, profits and gains liable to tax

Provided that in computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, unless such area has previously been abandoned

25 Omitted

26 Omitted

27 Omitted

28 Omitted

29 Omitted

30 Omitted

31 Omitted

32 Omitted

33 In any case in which the Income-tax Officer is of opinion that the actual amount of the income, profits or gains accruing or arising to any person residing out of British India whether directly or indirectly through or from any business connection in British India or through or from any property in British India, or through or from any asset or source of income in British India, or through or from any money lent at interest and brought into British India in cash or in kind cannot be ascertained, the amount of such income, profits or gains for the purposes of assessment to income-tax may be calculated on such percentage of the turnover so accruing or arising as the Income-tax Officer may consider to be reasonable, or on an amount which bears the same proportion to the total profits of the business of such person (such profits being computed in accordance with the provisions of the Indian Income-tax Act) as the receipts so accruing or arising bear to the total receipts of the business, or in such other manner as the Income-tax Officer may deem suitable

34 The profits derived from any business carried on in the manner referred to in section 42 (2) of the Act may be determined for the purposes of assessment to income-tax according to the preceding rule

35 Omitted

36 In the case of a person residing in British India, an application for a refund of tax under section 48 of the Act shall be made in the following form —

#### Application for Refund of Income-Tax/Super-Tax.

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby declare that my total income computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on \_\_\_\_\_ being the previous year for the assessment for the year ending on the 31st March 19\_\_\_\_, amounted to Rs \_\_\_\_\_, that the total income-tax and super-tax chargeable in respect of such total income is Rs \_\_\_\_\_ and that the total amount of income-tax and super-tax paid, or treated as paid under sub-section (5) of section 18, is Rs \_\_\_\_\_

I therefore pray for a refund of Rs \_\_\_\_\_

Signature \_\_\_\_\_

I hereby declare that I am \*resident and ordinarily resident  
resident but not ordinarily resident  
in British India, and that what is stated in this application is correct

Dated \_\_\_\_\_

19\_\_\_\_

Signature \_\_\_\_\_

---

\* Delete whichever description is inappropriate



**36-A** (a) In the case of a person not resident in British India, an application for a refund of tax under Section 48 of the Act shall be made in the following form —

**Application for Refund of Income-Tax/Super-Tax.**

I, \_\_\_\_\_ of \_\_\_\_\_ residing at \_\_\_\_\_ in \_\_\_\_\_ (country) do hereby state that my total income and total world income computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on \_\_\_\_\_ being the previous year for the assessment for the year ending on the 31st March 19\_\_\_\_, amounted to Rs \_\_\_\_\_ and Rs \_\_\_\_\_ respectively, that the total income-tax and super-tax chargeable in respect of such total income is Rs \_\_\_\_\_ and that the total amount of income-tax and super-tax paid, or treated as paid under sub-section (5) of Section 18, is Rs \_\_\_\_\_

I therefore pray for a refund of Rs \_\_\_\_\_

Signature

I hereby declare that I am a British subject (See note 2)/subject of \_\_\_\_\_ State being a State in India or Burma (See note 3) I also declare that what is stated in this application is correct

Dated

19\_\_\_\_

Signature

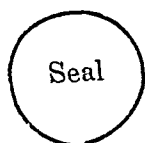
Sworn before me (Name)

Designation

Signature

at

on



**NOTE 1** —The above declaration shall be sworn (a) before a Justice of the Peace, a Notary Public or Commissioner of Oaths if the applicant for refund resides in any part of His Majesty's Dominions outside British India, (b) before a Magistrate or other official of the State or a Political Officer if he resides in a State in India, (c) before a British Consul if he resides elsewhere

**NOTE 2** —“British subject” means a person who is a natural-born British subject, or a person to whom a certificate of naturalization has been granted

**NOTE 3** —If the applicant is neither a British subject nor a subject of a State in India or in Burma he should delete the first sentence in the above verification

(b) An application for such a refund from a person not resident in British India who has made a similar application as a non-resident in the preceding year shall, unless the Income-tax Officer directs in any particular case that the application be made in the form prescribed in sub-rule (a), be made in the following form —

**Application for Refund of Income-Tax/Super-Tax.**

I, \_\_\_\_\_ of \_\_\_\_\_ residing at \_\_\_\_\_  
in \_\_\_\_\_ (country) do hereby state that my total income and total world income computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on \_\_\_\_\_ being the previous year for the assessment for the year ending on the 31st March 19\_\_\_\_, amounted to Rs \_\_\_\_\_ and Rs \_\_\_\_\_ respectively, that the total income-tax and super-tax chargeable in respect of such total income is Rs \_\_\_\_\_ and that the total amount of income-tax and super-tax paid or treated as paid under sub-section (5) of Section 18 is Rs \_\_\_\_\_

I therefore pray for a refund of Rs \_\_\_\_\_

Signature \_\_\_\_\_

I hereby declare that I am a British subject (See note 1)/subject of \_\_\_\_\_ State, being a State in India or Burma (See note 2) I also declare that what is stated in this application is correct and that I duly applied for a similar refund as a non-resident last year

Dated \_\_\_\_\_

19\_\_\_\_

Signature \_\_\_\_\_

NOTE 1 —“British subject” means a person who is a natural-born British subject, or a person to whom a certificate of naturalisation has been granted

NOTE 2 —If the applicant is neither a British subject nor a subject of a State in India or in Burma he should delete the first sentence in the above verification

**37** The application under rule 36 shall be accompanied by a return of total income and under rule 36-A by a return of total income and total world income in the form prescribed under Section 22 unless the applicant has already made such a return to the Income-tax Officer

**37-A. Omitted**

**38** Where any part of the total income of a person making an application under Section 43 for refund of income-tax or super-tax (or both) consists of dividends from companies, or income from which income-tax or super-tax (or both) has been deducted under the provisions of Section 18, the application shall be accompanied by the certificates prescribed under Section 18(9) or under Section 20 as the case may be

39 The application under rule 36 or rule 36-A shall be made as follows —

- (a) If the applicant is resident in British India, to the Income tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides
- (b) If the applicant is resident outside British India, to the Income-tax Officer appointed by the Central Board of Revenue

39-A Omitted

40 An application for refund of income-tax under Section 49 of the Act shall be made in the following form —

**Application for Relief from double Income-Tax under Section 49 of the Indian Income-Tax Act, 1922**

I, \_\_\_\_\_ of \_\_\_\_\_, do hereby state that I have paid (or under the provisions of Section 49B of the Act must be deemed to have paid) United Kingdom income-tax and super-tax amounting to £ \_\_\_\_\_ for the year ending 19 \_\_\_\_\_, on an income of £ \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid (or under the provisions of Section 49B of the Act must be deemed to have ~~been~~ paid) on the same income/income from the same source amounting to Rs \_\_\_\_\_. I have obtained relief under the provisions of Section 27 of the Finance Act, 1920, at the rate of \_\_\_\_\_ in accordance with the attached certificate from His Majesty's Inspector of Taxes

I now pray for a further relief at the rate of \_\_\_\_\_ amounting to Rs \_\_\_\_\_ under Section 49 of the Indian Income-tax Act, 1922, to which I am entitled. My income from all sources to which this Act applies during the "previous year" ending on the 19 \_\_\_\_\_, amounted to Rs \_\_\_\_\_ only—see Return of income attached/already submitted

Signature

I hereby declare that what is stated herein is correct

Signature

Dated

19

**40-A** An Application for refund of income-tax under the India and Burma (Income-tax Relief) Order, 1936, shall be made in the following form —

**Application for relief from double/triple income-tax under the India and Burma (Income-tax Relief) Order, 1936.**

I, \_\_\_\_\_ of \_\_\_\_\_, do hereby state that I have paid Burma Income-tax/income-tax and super-tax amounting to Rs \_\_\_\_\_ Burma Income-tax/income-tax and super-tax and United King-  
dom income-tax/income-tax and super-tax amounting to Rs \_\_\_\_\_ and £ \_\_\_\_\_ respectively for the year ending ended 31st March 19 \_\_\_\_\_ on an income† of

Rs \_\_\_\_\_ and £ \_\_\_\_\_ respectively and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid on the same income/part of the same income amounting to Rs \_\_\_\_\_. I am therefore entitled to relief under the provisions of the India and Burma (Income-tax Relief) Order, 1936 at the rate of \_\_\_\_\_.

[I have obtained relief under the provisions of section 27 of the Finance Act, 1920 at the rate of \_\_\_\_\_ in accordance with the attached certificate from His Majesty's Inspector of Taxes]

I now pay for relief amounting to Rs \_\_\_\_\_ under the India and Burma (Income-tax Relief) Order, 1936. My income from all sources to which the Indian Income-tax Act, 1922, applies during the previous year ending on the \_\_\_\_\_ 19 \_\_\_\_\_, amounted to Rs \_\_\_\_\_ only—See return of income attached/already submitted. I attach the official receipt of the Burma income-tax paid and the notice of assessment, showing the basis on which the liability has been computed (as also copies of the appellate order of the Assistant Commissioner and of the Order on revision by the Commissioner)

Signature \_\_\_\_\_

I hereby declare that what is stated herein is correct. § I further declare that as regards my Burma assessment, I have no intention to appeal to the Assistant Commissioner or to approach the Commissioner to revise it.

Signature \_\_\_\_\_

Dated \_\_\_\_\_

19 \_\_\_\_\_

\* For claimants for relief from triple income tax only

† Where the income on which income-tax has been charged differs from that on which super tax has been charged both amounts must be specified

‡ In cases in which no appeal to the Assistant Commissioner or petition to revise the assessment to the Commissioner has been made these words or the appropriate part thereof may be struck off

§ In case an appeal and a revision petition have been made or only an appeal has been made, these words or the appropriate part thereof may be struck off

40-B. An appeal under the India and Burma (Income-tax Relief) Order, 1936, shall be in the following form:—

**Form of appeal against an order refusing to grant a refund under the India and Burma (Income-tax Relief) Order, 1936.**

To

The Appellate Assistant Commissioner of Income-tax,

The                                      day of                                      19     .

The petition of                                      of  
post office,                                      District, sheweth as follows —

Your petitioner applied to the Income-tax Officer                                      for a refund under the India and Burma (Income-tax Relief) Order, 1936, of Rs                                      The Income-tax Officer has by his order dated the                                      of which a copy is attached rejected the  
application  
refund of only Rs                                      granted a  
Intimation of this order was received by your  
petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted

*Signed*

GROUND OF APPEAL

*Form of verification*

I,                                      the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief

*Signed*

Dated                                      19

41 The Application under rules 36, 36-A or rule 40 may be presented by the applicant in person or through a duly authorized agent or may be sent by post

42 A return shall be furnished by the principal officer of a company under Section 19-A in respect of a dividend or aggregate dividends if the amount thereof exceeds Rs 5,000

42-A A return shall be furnished by the person responsible for paying interest not being interest on securities in respect of amounts of interest or aggregate interest exceeding Rs 400



43-A The return under section 20 A shall be in the following form and shall be delivered to the Income-tax Officer in whose jurisdiction the person responsible for paying interest resides —

Return under section 20-A of the Indian Income-tax Act, 1922, for the year 1st April 19      to 31st March 19      .

Name of payer

Address of payer

Serial No	Name of payee	Address of payee	Date of payment	Amount of interest or aggregate interest

I hereby certify that the above statement contains a complete list of persons to whom interest or aggregate interest exceeding Rs 400 was paid during the period 1st April 19      to 31st March 19     

*Signature*

Dated

19     

44 The following bodies are recognised by the Central Board of Revenue as associations of accountants for the purposes of clause (m) of sub-section (2) of section 61 of the Indian Income tax Act, 1922 —

- 1 The Institute of Chartered Accountants in England and Wales;
- 2 The Society of Accountants in Edinburgh,
- 3 The Institute of Accountants and Actuaries in Glasgow,
- 4 The Society of Accountants in Aberdeen,
- 5 The Institute of Chartered Accountants in Ireland,
- 6 The Society of Incorporated Accountants and Auditors, London

45 The following accountancy examinations are recognised by the Central Board of Revenue for the purpose of sub-clause (b) of clause (iv) of sub-section (2), of section 61 of the Indian Income-tax Act, 1922 —

- 1 Government Diploma in accountancy examination conducted by the Accountancy Diploma Board, Bombay,
- 2 Diploma in Commerce issued under the authority of the Provincial Governments in Madras, Bengal, Punjab and Delhi,
- 3 The First Examination of the Auditor's Certificates Rules conducted by the Indian Accountancy Board,
- 4 Examinations conducted by the Association of Certified and Corporate Accountants, London

46 The following educational qualifications are prescribed by the Central Board of Revenue for the purposes of sub-clause (c) of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 —

A degree in Commerce, Law, Economics or Banking including Higher Auditing conferred by any of the following Universities —

*I Indian Universities*

Any Indian University incorporated by any law for the time being in force

*II Rangoon University*

*III English and Welsh Universities*

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales

*IV Scottish Universities*

The Universities of Aberdeen, Edinburgh, Glasgow and St Andrews

*V Irish Universities*

The Universities of Dublin (Trinity College) and the Queen's University, Belfast